

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 4, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 4, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing Vice-Chair; John W. McKay Jr. (in @ 1:35); Bill Johnson; Bob Aldrich; Elizabeth Bishop (out @350); M.S. Mitchell; Don Anderson; Ronald Marnell; Hoyt Hillman and Morris K. Dunlap. Bud Hentzen; Michael Gisick and Denise Sherman were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Scott Dunakey, Associate Planner; David Barber, Advanced Plans Manager; and Lisa Estrada, Recording Secretary.

1. Presentation of Sedgwick County Arena design options, by Stephanie Knebel.

STEPHANIE KNEBEL presented report.

Good afternoon Commissioners, I am Stephanie Knebel, Project Manager for Sedgwick County for the Downtown Arena. I thank you for the opportunity to come before you today to explain, where we are in the project and the (3) Designs. You have in front of you a hand out that I brought with me. There are three, one page summaries on each of the exterior building ideas. The fast Facts page describes where we have been and where we are going on the process. Finally, you have a survey I would encourage you to fill out, giving us your input about the three designs. Please fill out and leave with Dale Miller who will return it to me. There is a large agenda in front of you I am going to go rather quickly through the ideas. One of the key considerations before getting to how the exterior of the arena looks, is how does bowl design work and where are the seat at as we work through this. Once that decision is made then you can start to understand a little bit better, why the exterior design are what they are. The bowl design on all three of the options are identical, they all have two concourses, 360 degree around the arena, the green boxes are called fan services, those are a combination of concessions, retail sales, restrooms and any other support space needed. We have an end zone club on the first level which is a bar and restaurant open to anybody who may attend an arena event. That will only be open during arena events. Along the edge are club seats, the premium seats; those are a combination of club and loge boxes, loge being a new idea, introduced to this community. A semi suite, private area, the yellow across the back are the sideline club, which is the club area designed to service the premium seats as well as we are trying to figure out how to make it multi purpose to also serve concessions when on the outside concourse. Flip this side and you can start to see where the first level of suites are located, on top of the premium seats, right on top of the club area; adding in the second level suites, the pink, and the press box in purple. For all of the premium seats we are working with the outside consultant the Superlative Group who is going through an analysis right now to help us understand how many premium seats our community can afford and can support as we move through the years. I have added in the second concourse layer, right through here again with green boxes for fan services and entrances to the second level that you would walk up to get to your seats. That is the bowl design for all three. All bowls have been designed to support 15,000 seats for a basketball game. There are some slight variations for the different supporting events but that was the goal for 15,000 seats. Here is Option A for the exterior design, you can see this is an aerial view showing Emporia and Waterman, we have the railroad tracks at the top, Spaghetti Warehouse building, the Loft Project through here; Eaton Hotel and then Old Town. This is set diagonally on the site which will be different than the others but with it being diagonal we have the main entrance squared up for lack of a better word right along English so that when you are at Century II looking straight down English, you will be able to get a nice framed view of that entrance. On street level view, at the corner of Emporia & Waterman is how the front entrance will start to look. Three or four story glass façade, interior stairs; you can also start to see some of the glass. We have red brick coming in to help tie in the Historic Buildings in that area. The site plan lay out with the railroad tracks, Williams, Emporia, and Waterman you can see the bowl shape diagonally. We have the existing Historic Buildings; we are showing an entrance point at the back, to account for traffic that could be walking in from the arts district or even from a parking lot along Waterman on the eastside of the railroad tracks. We are showing a parking lot with an entrance off the parking lot; an entrance plaza, all sorts of green space around the plaza with a Loft Garden; the loft expansion being hidden, with landscape through there. We have main entry points along Emporia, and Old Town entrance to help people who are walking in from Old Town. The cutout, you can see the two concourse levels, we have the club area, and two suite levels, mechanical space. All three of the arenas are about the same height, between 108 to 120 feet up in the air. All options show an arena floor at ground level, we won't be sinking the bowl into the ground, there are to many concerns dealing with ground water and contaminated ground water. We have chosen to leave it at a ground level entrance. You can start to see the tall atrium. We have prepared a series of computer generated images, where elevated along Kellogg at the railroad tracks. This is the view along Kellogg, more of the red brick, glass exterior. You can see some of the pillars at the entrance. Not all of the building are shone, but you do start to get a since of the height of the building and how it will look for the cityscape. We are at ground level where we have Commerce Street and Waterman, again the red brick exterior around the building, glass with the roof being just a bit darker on this, rather than a shinny silver color you will see in the others along with entrance portion along Emporia. Ground level again, this is Emporia looking north, you can see the entrance all squared up, glass, a darker roof, red brick starting to come around. An aerial view, we have English, you can see that front centered on English, you get that framing effect, and you can start to see the brick, coming around for the front entrance from Old Town. Again plenty of public gathering space, civic space on all of these designs you can see very well from these angles. We are at Emporia and William Street looking back south, again starting to wrap ourselves around the building. This is the parking structure for the Loft Apartments development that is going on; again the entrance, just starting to peak through north of the Old Town entrance. An aerial of the Old Town Entrance through, the Loft Apartment, we have a drop-off circulation on all three of those, for people to walk directly to this point. A computer graphic design showing the big expansive space in the entrance area, we have the three-story glass along Emporia, a combination of stairs and escalators, ticket booth, all showing the first concourse, looking into that big space. Again an overhead aerial, of Option A street rendering.

Option B is oriented to the East and West for the bowl. We still have the streets in the same place where we had Emporia and Waterman and the railroad tracks, the Spaghetti Warehouse Building, the Lofts and Eaton Place. This entrance is parallel to Kellogg, so when you are driving along Kellogg that view is what you would primarily see, in addition to post formation. English is along here, so we have this part of the building being centered on English. This option has all exterior stairs being shown. Here is the street view of that, Option B, the big wide entrance centered on Kellogg. This one starts to show steps, entrance steps, grand entrance steps of about 8, the idea being you are starting to enter the building for a presentation, you would still have to walk up some step to get to the first concourse. The distance would not be as great since you are starting elevate on the outside. Of course, there are ramps and ADA accessibility issues as this design develops further. Big grand expansive glass, we have some horizontal shielding going, there might be a better word, to help keep the direct sunlight out of this big expanse; a big post rock point at the very end with a beam. This site plan is the same basic idea but with the east, west orientation is different, we have a main entrance shown, the purple dot, another entrance towards the back, purple, and the Old Town entrance. Again, we have a little bit more parking on this option because it is straight east west and the Lofts and again the civic space along Emporia; starting to show some drop-off areas for buses or for cars along Emporia. You can see with this cutout the slop of the roof; there is a big difference between the two different roof levels of about 10 to 15 feet. That is a dramatic effect, big expensive glass coming in off the ground level and climbing the steps before coming into the big open space. We have first and second concourses. Elevated from Kellogg and Waterman, you would be able to see a bright shining beacon while driving along Kellogg. Again, a good view of the two different roof levels. At ground level at Waterman and Commerce, you can start to see how big this building is starting to be. You are starting to see red brick elements in addition to the limestone elements. Not quite at the corner of Waterman and Emporia but you can see the steps and the different kinds of building materials. The glass structure is a little bit difference and the roof structure is unique looking structure for this option. An aerial lined up here along English again the different materials, glass structure, again the civic space out front and the Loft project. Ground level at Emporia and Williams looking back, the exterior stair structures, the main entrance through here, a drop off, this is starting to show the north entrance from Old Town and civic space. An aerial view on the north side showing the entrance to Old Town and the same similar concepts between the drive through and the loft garage. A ground view of Old Town entry, the other two options need to be further developed for this entrance, but you kind of get the idea of what it would look like in scale with panes of glass on the north side. This is the big open entrance for Option B. This is what it is along south, or the south side of the building, being able to see entrance and first and second concourse and the upper suites all having a big view of that four or five story space, again the aerial of that option and the ground view of that option.

Option C, this is the aerial view, the inspiration of this was the airplane manufacturing heritage here in Wichita, you can see the curve of the wing, I was told it looked like the Nike swish. This is the on street view of this same option, basically at the corner of Emporia and Waterman you can see, instead of louvers, you will see glass and an outside balcony perhaps in through here with louvers being lifted up to see inside. We have this big pane of glass, actually tilted in this version, rather than being straight vertical, support pillars and columns all trying to get their design ideas from the airplane-manufacturing heritage. Site plans all the same through here, parking different with the bowl being configured north and south. The main entrance being centered off Emporia, a secondary entrance on the south and another secondary entrance along the north for Old Town. The building section you can see this shape through here and the downward tilt, same idea with the four or five story span of glass leading out to a view down English and our sweet levels and our concourse levels here. The elevated view from Kellogg and Waterman you can see the back of the building with louvers being air circulation for the mechanical system needed for the building. A closer look, not from ground level, but again it is the shape; you can see more of the windows and the balcony effects. Elevated look along English, on English will be that main entrance, full of glass and minimal support. This plan shows some monument signage along the corners, the entrance on the south and the entrance along the north. A better view rendering of the main entrance centered along English, this is the corner of English and Williams, starting to see the main entrance here and the Loft Apartment, and the entrance on the Old Town side. This is the aerial from Old Town, the north entrance, the drop off zone and again just celebration of that shape and heritage, glass panes, public space. This is an interior view showing the panes of glass from the west, you can see out on English, Century II toward the west again full appreciation of the big expanse looking from the different concourses and the suite levels all the way down to the entry level, the aerial view, the street view, and then all three small versions.

The commissioners are on track hopefully with all the Public Hearings to make their decision on May 24, 2006. Please fill out surveys.

Schlegel asked if there was any desire for the Commission to take a position as a board on any of these options or would you prefer to give own individual input.

It was suggested to do it individually.

❖ **SUBDIVISION ITEMS**

2. Consideration of Subdivision Committee recommendations from the meeting of April 27, 2006.

2-1. SUB 2006-35: One-Step Final Plat -- NEWMARKET OFFICE ADDITION, located on the north side of 29th Street North and west of Maize Road.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2004-41) from SF-5, Single-Family Residential to GO, General Office.

STAFF COMMENTS:

- A. Applicant needs to either pay in lieu of assessment for water connection or contact Public Works Engineering to see if they can be assessed for newly installed water main. **A sewer lateral extension is needed through a petition or by a private project.**

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved subject to revisions. Detention ponds should be platted within a drainage Reserve. The subdivision should be submitted using an approved datum. An off-site drainage agreement may be needed with the landowner to the east. The Cadillac Lake drainage basin study shall be completed prior to the submittal of this plat to City Council.**
- D. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **A left-turn lane is needed into the major openings.**
- E. The dedication of access controls is needed along 29th St. North. The final plat shall state that "All access openings shall be in accordance with minimum spacing requirements of the Wichita/Sedgwick County Access Management Standards." The final plat shall reference the dedication of access controls in the plat's text.
- F. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- G. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- K. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- N. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- O. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approved per staff comments

HILLMAN moved, **DOWNING** seconded the motion, and it carried (11-0).

2-2. SUB 2006-34: One-Step Final Plat -- CLIFTON HEIGHTS COMMERCIAL ADDITION, located on the on north side of 55th Street South and east of Hillside.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site has been approved for a zone change (ZON 2005-61) from SF-20, Single-Family Residential to LC, Limited Commercial. The Clifton Heights Commercial Community Unit Plan (CUP 2005-75, DP-294) was also approved for this site. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. The applicant shall guarantee the extension of sanitary sewer (main and lateral) and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved by City Engineering subject to revisions. Minimum pad elevations should be stated for all lots. A 20' drainage easement needs to be included on the plat along the east line of lots 1-5 and between lots 7 & 6.**
- E. **County Engineering** requests that development of this site should be deferred until Sedgwick County Project D-20 (Clifton Drainage) or an acceptable alternative project is completed. **The applicant will be submitting a restrictive covenant to address this restriction enabling the plat to proceed.**
- F. In accordance with the CUP, the applicant shall provide a guarantee for the construction of a third lane on Clifton.
- G. **Traffic Engineering** needs to comment on the access controls. The plat denotes three openings along Clifton, with the southernmost opening limited to rights-in/out. Two openings have been denoted along 55th South with the westernmost opening denoted as rights-in/out. **Access controls are approved.**
- H. The joint access easements shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- I. In accordance with the CUP, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- J. The perimeters of the proposed lots shall match the perimeters of the CUP boundaries. A CUP adjustment will need to be approved which also reflects the revised access controls.
- K. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- L. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- M. On the final plat tracing, a note shall be placed on the face of the plat indicating that this Addition is subject to the conditions of the Clifton Heights Commercial Community Unit Plan (CUP 2005-75, DP-294).
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- W. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approved per staff comments.

HILLMAN moved, **DOWNING** seconded the motion, and it carried (11-0).

2-3. SUB 2006-33: One-Step Final Plat -- CLIFTON HEIGHTS COMMERCIAL 2nd ADDITION, located on the on the north side of 55th Street South and west of Oliver.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site has been approved for a zone change (ZON 2005-59) from SF-20, Single-Family Residential to LC, Limited Commercial. A Protective Overlay (P-O #168) was also approved for this site addressing uses, outside storage and building height.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. The applicant shall guarantee the extension of sanitary sewer (main and lateral) and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City/County Engineering needs to comment on the status of the applicant's drainage plan. Sedgwick County Engineering requests a flood study for this plat or a careful review of existing flood studies from 55th St. bridge construction. City Engineering requests that all areas located within the 100-year floodplain shall be located within the Reserve. This needs to be completed prior to the plat being forwarded to City Council.
- E. Traffic/County Engineering needs to comment on the access controls. The plat denotes one opening along 55th South. Access controls are approved.
- F. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- G. Since drainage will be directed onto the adjacent railroad right-of-way, a letter shall be provided from that railroad indicating their agreement to accept such drainage.
- H. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within 30 days after approval by the City Council and/or County Commission.

- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approved per staff comments.

HILLMAN moved, **DOWNING** seconded the motion, and it carried (11-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

3-1. VAC 2006-18: Request to Vacate an Easement Dedicated by Separate Instrument and Platted Access Control.

<u>APPLICANTS/OWNERS:</u>	Slawson East, Inc.
<u>AGENT:</u>	PEC, c/o Rob Hartman
<u>LEGAL DESCRIPTION:</u>	Generally described as the platted 40-foot right-in – right-out access control located between Lots 5 & 6 and the 20-foot wide easement dedicated by separate instrument (Film 1716, Page 940) located within the platted access control requesting vacation all in the Cross Pointe Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located on the southeast corner of the 21 st Street North – Greenwich Road intersection (WCC District #II)
<u>REASON FOR REQUEST:</u>	Boundary shift
<u>CURRENT ZONING:</u>	The site and all abutting and adjacent properties are zoned “LC” Limited Commercial. The site is part of CUP DP-279

The applicant has applied for the vacation of the described platted complete access control along the site's 21st Street North frontage. The request will remove the platted drive and relocate it approximately 10-feet east of its current location as right-out only. The subject site is part of CUP DP-279, which has integrated access, circulation and parking, including six (6) existing/permitted platted access/drives, including 3 with full movement, onto 21st Street North. At this location 21st is a four-lane arterial with a center turn lane. North of the site, across 21st, is the largely undeveloped Manhattan Addition, which has permitted, per the plat, three (3) drives onto 21st, one of them being full movement. There are manholes and a sewer line located in an easement dedicated by separate instrument, which the applicant has requested to be vacated. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement and 40-foot drive. The applicant proposes a 20-foot replacement easement. The Cross Pointe Addition was recorded with the Register of Deeds July 22, 2005.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted access control, per the approval of the Traffic Engineer, and the easement dedicated by separate instrument, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 13, 2006 which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted complete access control and the easement dedicated by separate instrument described in the petition should be approved with conditions:
 - (1) Vacate that portion of platted access control along the site's 21st Street frontage, as approved by the Traffic Engineer to realign the drive. Provide Staff with an e-mail word document of the metes and bounds description of the location of the new drive (movement on the drive to be approved by the Traffic Engineer) and provide Staff with dedication of access control over the old drive's location.
 - (2) There are manholes and sewer line in the easement dedicated by separate instrument. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide staff with a petition/guarantee to relocate the manholes and sewer line. Provide staff with an easement to be

recorded with the Register of Deeds. Retain the easement until all utilities have been relocated or a petition/guarantee to relocate all utilities.

- (3) All improvements shall be according to City Standards, including any driveways from private property onto public ROW. All improvements shall be at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

- (1) Vacate that portion of platted access control along the site's 21st Street frontage, as approved by the Traffic Engineer to realign the drive. Provide Staff with an e-mail word document of the metes and bounds description of the location of the new drive (movement on the drive to be approved by the Traffic Engineer) and provide Staff with dedication of access control over the old drive's location.
- (2) There are manholes and sewer line in the easement dedicated by separate instrument. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide staff with a petition/guarantee to relocate the manholes and sewer line. Provide staff with an easement to be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated or a petition/guarantee to relocate all utilities.
- (3) All improvements shall be according to City Standards, including any driveways from private property onto public ROW. All improvements shall be at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: Approved per staff comments.

HILLMAN moved, **DOWNING** seconded the motion, and it carried (11-0).

3-2. VAC 2006-19: Request to Vacate Portions of Platted Easements.

OWNER/APPLICANT: Dillon Real Estate Co., Inc.

AGENT: Pickering Inc., c/o Cara Martin, PE

LEGAL DESCRIPTION: See legal & exhibit: Generally described as the platted 8-foot & 10-foot utility easements running along the common lot lines of 6, 7, & 8, Block A, Loma-Linda Gardens Addition and Lot 1, Dillon 10th Addition, the 2-foot easement (ZON2005-50), dedicated by separate instrument, running parallel to the platted 8-foot easement running along the north lot lines of 6, 7, & 8, Block A, Loma-Linda Gardens Addition, and the west portion of the platted 20-foot utility easement, located on Lot 1, Dillon 10th Addition, all in Wichita, Sedgwick County, Kansas.

LOCATION: Generally located southwest of the Seneca Street – 31st Street South intersection, on the northwest corner of Exposition Avenue and 32nd Street South (WCC #IV)

REASON FOR REQUEST: Proposed expansion of existing building

CURRENT ZONING: Portions of the subject properties are zoned "LC" Limited Commercial, "GO" General Office, "SF-5" Single-family Residential, & "TF-3", Duplex Residential. Property east of the site is zoned "LC". Public right-of-way abuts the site's west (Exposition Avenue), north (31st Street South) and south (32nd Street South) sides.

The applicant proposes to vacate the described portions of the platted and dedicated by separate instrument easements, as shown on the applicant's exhibit. There appears to be manholes and sewer lines in the easements. The Loma-Linda Gardens Addition recorded with the Register of Deeds September 13, 1955. The Dillon 10th Addition was recorded with the Register of Deeds August 16, 1984.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the described portions of platted and dedicated by separate instrument easements with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 13, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above described portions of platted and dedicated by separate instrument easements and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the platted easements and easement dedicated by separate instrument described in the petition should be approved with conditions:
- (1) Provide Staff with a copy of any required additional public easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a petition/guarantee for the relocation of the sewer line and manholes.
 - (3) Retain the easements until all utilities have been relocated or a petition/guarantee for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
 - (4) All improvements shall be according to City Standards and at the applicant's expense.
 - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Provide Staff with a copy of any required additional public easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a petition/guarantee for the relocation of the sewer line and manholes.
3. Retain the easements until all utilities have been relocated or a petition/guarantee for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
4. All improvements shall be according to City Standards and at the applicant's expense.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: Approved per staff comments.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (11-0).

- 3-3. VAC 2006-20: Request to Vacate an Egress/Ingress Easement Dedicated by Separate Instrument, generally located east of Rock Road, on the north side of Kellogg Avenue and west of the dead-end Heather Road.

APPLICANT: AGENT

ABC LLC
K E Miller Engineering, PA c/o Kirk Miller

LEGAL DESCRIPTION:

The ingress/egress easement dedicated by separate instrument (Film 409, Page 643), located in the west 7-feet, except the north 10-feet, of Lot 1, Mark 8 Addition, and the west 13-feet of the east 63-feet, except the north 10-feet, of Lot 8, Ruth Addition, all in Wichita, Sedgwick County, Kansas

LOCATION:

Generally located east of Rock Road, on the north side of Kellogg Drive and west of Heather Road (WCC #II)

REASON FOR REQUEST:

Due to Kellogg Street expansion, easement is no longer needed

CURRENT ZONING:

The site, the abutting eastern and western properties are zoned "LC" Limited Commercial. The abutting northern properties are zoned "SF-5" Single-family residential. The abutting southern property is public street ROW: Kellogg Drive and Kellogg Avenue

The applicant is requesting vacation of the described ingress/egress easement dedicated by separate instrument. The recent expansion of Kellogg Street has reconfigured and reduced the size of its abutting northern properties and moved utilities along this portion of the ROW's north frontage. There are no manholes, sewer or water lines in the described easement. Sewer appears to be located in the platted 10-foot utility easement located along the site's north lot line of Lot 1, Mark 8 Addition. Sewer also appears to be located in the platted 8-foot utility easement located along the site's north lot line of Lot 8, Ruth Addition. Water appears to be located in the newly expanded Kellogg ROW. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. The Ruth Addition was recorded with the Register of Deeds July 15, 1959. The Mark 8 Addition was recorded with the Register of Deeds May 30, 1980.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the ingress/egress easement dedicated by separate instrument, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 13, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above described ingress/egress easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the ingress/egress easement dedicated by separate instrument described in the petition should be approved with conditions:
1. Retain the ingress/egress easement until comments have been received from all utility companies.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 3. Dedicate an additional 2-feet of easement to run the length of the platted 8-foot easement located along the north lot line of Lot 8, Ruth Addition. Provide Planning Staff with that original dedicated to forward it with the Vacation Order to be recorded with the Register of Deeds.
 4. Access control will be per the current Traffic Management Standards.
 5. All improvements shall be according to City Standards and at the applicant's expense.
 6. All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County or franchised utilities and recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Retain the ingress/egress easement until comments have been received from all utility companies.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
3. Dedicate an additional 2-feet of easement to run the length of the platted 8-foot easement located along the north lot line of Lot 8, Ruth Addition. Provide Planning Staff with that original dedicated to forward it with the Vacation Order to be recorded with the Register of Deeds.
4. Access control will be per the current Traffic Management Standards.

5. All improvements shall be according to City Standards and at the applicant's expense.
6. All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County or franchised utilities and recorded with the Register of Deeds.

Subsequent research by Planning Staff determined that this vacation request was not necessary and advised the MAPC that this case was being withdrawn.

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- 3-4. **VAC 2006-21: Request to Vacate a Platted Easement.** generally located east Rock Road, on the north side Kellogg Avenue and west of the dead-end Heather Road.

APPLICANT: AGENT

ABC LLC
KE Miller Engineering, PA c/o Kirk Miller

LEGAL DESCRIPTION:

The platted 10-foot wide utility easement, located in the west 10-feet of the west 135-feet, except the north 10-feet, all in Lot 1, the McDonald's First Addition, Wichita, Sedgwick County, Kansas

LOCATION:

Generally located east of Rock Road, on the north side of Kellogg Drive and west of Heather Road (WCC #II)

REASON FOR REQUEST:

Due to Kellogg Street expansion, easement is no longer used

CURRENT ZONING:

The site and the abutting western properties are zoned "LC" Limited Commercial. The adjacent northern properties are zoned "SF-5" Single-family residential. The abutting southern property is public street right-of-way (ROW): Kellogg Drive and Kellogg Street. The abutting eastern property is undeveloped, dead-end public ROW: Heather Road

The applicant is requesting vacation of the described platted utility easement. The recent expansion of Kellogg Street has reconfigured and reduced the size of its abutting northern properties and moved utilities along this portion of the ROW's north frontage. There are no manholes, sewer or water lines in the platted utility easement. Sewer appears to be located in the platted 10-foot utility easement located along the site's north lot line. Water appears to be located in the newly expanded Kellogg ROW. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. The McDonald's First Addition was recorded with the Register of Deeds May 13, 1984.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted 10-foot wide utility easement, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 13, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above described platted utility easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the ingress/egress easement dedicated by separate instrument described in the petition should be approved with conditions;
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 2. All improvements shall be according to City Standards and at the applicant's expense.
 3. Retain the easement until comments have been received from all utility companies. Provide any needed easements for relocated utilities.
 4. Access control will be per the current Traffic Management Standards.
 5. All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County or franchised utilities and recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
2. All improvements shall be according to City Standards and at the applicant's expense.
3. Retain the easement until comments have been received from all utility companies. Provide any needed easements for relocated utilities.
4. Access control will be per the current Traffic Management Standards.
5. All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County or franchised utilities and recorded with the Register of Deeds.

MOTION: Approved per staff comments.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (11-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: DR2005-32** - Request Amendments to the Unified Zoning Code Pertaining to Manufactured Home Parks

MAPC deferred March 16, 2006

Background: On March 16, 2006, the Metropolitan Area Planning Commission (MAPC) considered proposed amendments to manufactured home park regulations. At the hearing, numerous representatives of the manufactured home park industry spoke against the proposal, citing several concerns. The MAPC voted to direct staff to work with representatives of the manufactured home park industry to revise the proposal in light of their concerns and return the proposal to the Advance Plans Committee for consideration.

On April 11, 2006, staff met with 15 representatives of the manufactured home park industry to work on revisions to the proposal. As a result of that meeting, the following changes to the proposal (see Attachment 1) have been made:

- 1) Section 26.04.038 of the licensing regulations (Page 10, Attachment 2) was revised to permit the operation of a manufactured home park during the period in which an appeal from the refusal to renew a license is being heard.
- 2) Section 26.04.117 of the licensing regulations (Page 20-21, Attachment 2) was revised to require notification of manufactured home park residents of a license revocation and to permit the operation of a manufactured home park during the period in which an appeal of a license revocation is being heard.
- 3) Section 26.04.120(i) of the licensing regulations (Page 25, Attachment 2) was revised to allow 24 months, instead of 12 months, from the date of license renewal to install screening for existing manufactured home parks.
- 4) The proposal to increase the fine for violating the licensing ordinance was removed.
- 5) Section IV.B.3.a.(1) of the zoning regulations (Page 3, Attachment 3) was revised to allow screening along arterial streets to be a masonry wall, a wood fence, or evergreen vegetation. The regulation also was revised to require screening only for new, and not for expanded, manufactured home parks.
- 6) Section V-I.2.o. of the zoning regulations (Page 3-4, Attachment 3) was proposed to be created to allow a reduction or waiver of the screening proposed to be required for existing manufactured home parks.
- 7) Section VII-G.2.g. of the zoning regulations (Page 5, Attachment 3) was revised to clarify that a manufactured home space is considered occupied if a manufactured home meeting minimum occupancy standards and connected to utilities within the past 180 days is located on the space.

The proposed changes were presented to the Advance Plans Committee on April 20, 2006. The Advance Plans Committee voted to refer the proposed changes to the full Planning Commission for consideration on May 4, 2006.

In February and March, each District Advisory Board reviewed the proposed manufactured home park regulation changes. A report entitled "District Advisory Board Overview: Proposed Manufactured Home Park Zoning and Licensing Code Amendments" (Attachment 4) is attached and summarizes the feedback from the District Advisory Boards.

Recommended Action: Based on information available prior to the public hearing, staff recommends **approval** of the proposed changes to manufacture home park regulations. This recommendation is based on the following findings.

1. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon property owners: The proposed amendments are intended to further the health, safety and welfare of the community by providing additional enforcement mechanisms for addressing violations of City code by manufactured home parks. These violations create housing conditions that are unsafe and generate numerous complaints from surrounding property owners due to the negative impacts of these violations on their property. Owners of manufactured home parks will be faced with the hardship of complying with additional regulations, but the gains to public health, safety and welfare outweigh this hardship.
2. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The South Wichita-Haysville Area Plan is an adopted element of the Comprehensive Plan, and it recommends significant changes to manufactured home park regulations. The proposed amendments do not implement the recommendations of that plan in their entirety, but are intended to provide reasonable regulations that address issues identified in the plan.
3. Opposition or support of neighborhood residents: The desires of residents in the South-Wichita Haysville area to improve the perception of their area, which they feel is negatively impacted by poorly maintained manufactured home parks, led to the recommendations of the South Wichita-Haysville Area Plan to amend manufactured home park regulations.

SCOTT KNEBEL Planning staff presented report of the Proposed Amendments zoning regulations pertaining to Manufactured Home Parks. The Planning Commission heard the item on March 16, 2006, and there were a number of concerns cited by the manufactured home park industry at that meeting. The Planning Commission deferred action on the proposal and directed staff to meet with industry representatives to bring back a modified proposal. We met with the industry on April 11, with 15 industry representatives attending that meeting. We came up with seven changes to the proposal, which you have before you. Advanced Plans heard this proposal on April 20, and recommended that it come to the full commission, which is this hearing today. Staff recommends that the changes be approved, and the findings are on the second page of this report.

DUNLAP Have you had any contact with the association since that Advanced Plans Committee meeting.

KNEBEL I have been in contact with them and provided written comments for the commission to consider. Essentially, their position is that the two items that are proposed that they do not support are the requirements that all manufactured home parks come into compliance with the current screening standards and that new manufacturing home park be required to screen along the arterial or collectors streets.

TOM BYRNE, 1001 S. Stage Coach. I'm a small business owner in the manufactured housing industry. and I am on the executive committee for the Kansas Manufactured Home Association. I would like to apologize, Martha Smith could not be here today. She is at the state house on a tax bill issue, and wished she could have been here. As Scott said, Martha did reduce her comments to writing and provided it to the commission, as she was asked. I will summarize that there are two items, and only two items out of the many changes that have been made, that we do not support: 1) the removal of the grandfather clause for providing rear and side screening, and 2) the new zoning ordinance for screening property that abuts arterial and collector streets. I would like to answer any questions to Martha's comments. I have been at all the meetings, and pretty much know the association's position.

ROGER CRANDON, 3201 N. St. Clair, I would like to invite all of you to look at the trailer park at 29th and St. Clair, it runs from St. Clair to Meridian. It is very necessary that we have screening all the way around it, so we can stop the trash from going all over our yards. If I could get you to drive through the park, you would have to move one of the mattresses that is laying in the driveway so that you can get in there. We have a problem up there. Everybody seems to ignore it. I also want to put on record that they are tearing some of these down, and there is no guard to stop the kids from playing in these things. After school, they are playing in these trailers they are tearing down. It is not when, but if, one of the kids get hurt over there, and they sue. You all are aware of the problems we are having up there. I might ask the crowd how many want that screened. You see these people here. They have to live down there. We have insulation blowing down the street. We have trash blowing down the street, and it is a mess. Come by and look at it before you decide that some of these folks don't need to be screened.

DUNLAP Have you complained to code enforcement about this issue.

ROGER, That laughter is the response. We have complained over and over again. What happens is that Jay, the fellow we are working with, he contacts the people in the trailer. They say no they don't own the trailer. They are just renting it. He then contacts Mr. Mott who owns the place, Mr. Mott replies that he owns the lot. He doesn't own the trailer. This goes back and forth. They placarded the trailers, and then in the evening after Jay gets off work, they break the windows and live in there anyway. Jay has tried and tried, and he is getting no support from anybody else on this commission or the rest of the city.

MITCHELL my question is, if you had the ordinance written the way it is, in the blue report, what makes you think it would be enforced any better.?

ROGER I'm here because I do not know what to do.

JUDY GOMEZ 2864 N. Meridian, I have lived at that address for 25 years, I know that you all have been interested in looking at the blight in the city. That is the perfect example of blight in the city limits. I wish you could take a good look at reviewing the grandfather clause that allows these things to exist. It has gone from bad to worse over the years. When we heard that screening was going to be a possibility, that was exciting. That was the first that we had heard that was toward our benefit. Not only was it a benefit for homeowners, it is better for the occupants of this area. There are numerous under age children that are loose in that area. There are public schools with buses right next door. 29th is rather a busy street. I have to say, it doesn't do a lot for our confidence in our leaders when people on the east side can have a blue roof changed because it doesn't fit within their neighborhood, but we can't get anyone to look at the trailer park that is right in the center of a modest area.

WARNER the only comment I might add is that the city paid for the blue roof and a businessman is going to pay for the wall.

GOMEZ we would like the city to support our concern over the blight in our area.

BRENT ANDERSON in my normal job I am an Assistant United States Attorney. I am a federal prosecutor; however, the neighbors in this area, near 29th and Meridian came to me and asked for help. I obtained permission from the United States Department of Justice to try to help them. That is why I am here today. I have observed this so-called trailer park for the last 15 or 20 years for various reasons. I live close to the area, but not in the immediate area. I can tell you it is an embarrassment as a life long Wichitan that this trailer park exists. It is sad that it does, and I am going to do everything in my power to see to it that it no longer exists. In the mean time, anything that the Planning Commission can do to encourage the City Council to cause Mr. Mott to do something to at least shield the hideous blight of this trailer park at 29th and Meridian would be greatly appreciated. If you haven't seen it, and you drive by it and you drive through it, you will not believe it. It is a shameful place. It is terrible and this neighborhood, it is a nice neighborhood, there are two schools adjacent to this trailer park, Pleasant Valley Middle and Elementary Schools. It is shocking that this has been permitted to go on. If you would at least permit the grandfather screening that would help a little in the short term until we can get this out there. I would also suggest to you that when you drive through, you should note that I have talked to the police officer that works in that area for years, and that is where all the crime reports come from. That is where all the drug deals are. That is where the domestic violence cases are. I can tell you that the immigration authorities estimate that at least 70% of the residents are illegal aliens. They are not supposed to be in the United States. It is a good indication of what we have been talking about. This frankly doesn't have anything to do with the responsible businessmen that are here today on these ordinances. This is a unique situation. Anything you can do to tighten the regulation of mobile home parks will help avoid something like this happening in other neighborhoods, because, as it has been proven here, it can happen. I will give one last description so that you will know what we are talking about. In 1949 a little strip center was built at 29th and Meridian. It went out of business because the roads changed. Starting in 1971, I assume that it was Mr. Mott, but I am not sure of that, but someone started parking these trailers on a parking lot, and that is what is there today. We have a bunch of so-called mobile homes that are over 30 years old sitting on a parking lot at 29th and Meridian. Thank you for whatever you can do to tighten up these regulations.

ALDRICH just for clarification, do you oppose the fact of the mobile homes or do you oppose of the individuals that can afford to live in the homes.

ANDERSON we oppose the presence of these homes on this parking lot. This slumlord caters to people who don't have resources. They are just scraping by, so as you might imagine, they don't have any money to paint. They don't have money to do anything to upkeep these mobile homes. As a result, the trash that has been described accumulates. The mattresses that nobody can afford to drive down to the landfill are set outside the mobile homes, and they deteriorate and the wind blows and they blow into this nice neighborhood that is directly adjacent to this mobile home park. It is nothing against the people that are there. They are desperate people, and they have nowhere else to go. They are abused by the gentleman who owns this park. Because of their circumstances, they are not able to properly maintain their home. Just drive through, and you can see what I am talking about. No one is against the people that are there. They are victims of the person who owns this place.

MARNELL you understand that we are involved with land use and land use issues. Is there any thing specifically, any comments on anything on what is before us today, as opposed to what I would characterize as code enforcement.

ANDERSON I would say that the grandfather screening should stay in. It at least requires someone, I am not sure of the proper name these days, but to some extent shield their appearance from the outside neighborhoods. Some of these places are very nice and managed by responsible people. Then there are some that are horrible. No one would want to look at them for 35 years, as these people have had too. The other thing I would say is the neighborhood, and the people I have talked to, strongly support your licensing changes that would tighten up licensing and put in a requirement that the licensing could actually be revoked. They do support that. The tighter the better. The way is it set up now with the two years, and the person can appeal to City Council, appeal to this body, etc. I have practiced law for 20 years. I could stall that out for 4 years at least. I would recommend tightening up the licensing procedure where if you revoke a license, a person is not allowed to operate their park while in the appeal is pending. I know the neighborhood would support going back to the original draft, don't allow them to operate the park while they are appealing to the district court. Obviously, to the City Council, they should be able to operate, but once they appeal to district court, court of appeal, Supreme Court, that takes years and years. If it is not tighter than that, that won't happen.

DUNLAP you have been placed in the position of the expert. These folks don't understand the process quite as well as you after 20 years of law experience. I would like to ask your opinion about the enforcement of the codes, both from the trash and the things you have seen. I have been there, so I know what it looks like. The health department, and one that you mentioned, which was INS, if all of those were administered correctly to the law that we have today, would that fix the problem.

ANDERSON I don't know how it would. These folks have been complaining to anyone who would listen. They have complained to INS, which their job is to prosecute criminals on immigration cases. I can tell you this it not something they are going to be able to do anything about. It doesn't matter who is there. It is people who can't afford to go anywhere else, that is who goes there. Since they have no credit, they have no identity, they have no way to be there, a person basically facilitates there existence in Wichita Kansas by making this so called residence available to them, and taking advantage of their situation because they have no where else to go. They know this person will protect and shield them from the authorities in some way.

DUNLAP we have codes in at least three areas, and they are obviously are not being enforced.

ANDERSON it has improved. For the first time, two or three homes have been taken out. Although it is creating an incredible dangerous situation for the small children, something has happened. Somebody is doing something, and it is to the surprise of many. What I have encouraged the neighborhood to do is to continue to report what they can see. You have to drive through there if you want to see much, and it is not safe to drive safe through there at any time, but certainly not at night. However, you have to drive through there to see something that you can report. I am hoping we can get together with code enforcement and have them tell us exactly what to look so that we can report to you so that you can go out and enforce. It is a case where the owner has been able to string the City along, and he only does the minimal amount necessary to keep somebody from doing something.

DUNLAP I think the process is right. They have brought up the awareness. Some people didn't know if it was 29th North or 29th South.

ANDERSON it is 29th north by Pleasant Valley, right by the middle school. Do you agree with me that it looks as I described it?

DUNLAP I am in the real estate business, and I thought it was something that we could do with that old shopping center, but apparently not.

ANDERSON it is probably filled with asbestos I suspect.

MIKE HERRING 2510 Valley Park, which is ½ block from the mobile home park you are talking about. Mr. Mitchell in answer to your question, if the item was on the books, we would find someone, someday to enforce it. If it is not on the books, there is nothing that we can do about it. I agree with Brent, if we had the screening and the licensing that would certainly be a start, at some point we could find somebody that could enforce the screening and the licensing.

JAN LONG 3116 N McLean I've lived there for 20 years, I would like to add to what my neighbors have said before to the effect that the property was originally a small shopping center. It is a non conforming use. It is zoned limited commercial. What I would like to see in the regulations is something that would phase out non conforming uses. Some of you may not understand that there were originally 25 trailers there. I think more than three have been demolished. I think a couple more are placarded. I am hoping that maybe a third of them might be gone, so we are not talking about a huge manufactured home park that was designed to be that way, or was maintained as that. It is a non-conforming use. It is because of the nature of the instillation of Wichita-Valley Center Floodway, Meridian does not go through anymore. I think originally it designed to go up and over the ditch. I empathize with the property owner who had a commercial business that was not longer viable, but I certainly do not think mobile home park is an appropriate use of that space.

DEVOE TREADWELL, owner of Park Village, 130 South Greenwich Road in Wichita. I do understand what these people are talking about. Even parks like ours, we don't like the places that are pigsties and a blight on the industry. I do not believe that punishing parks that try to do it right is the answer to correcting these people's problem. I do however believe there are laws on the books presently that can correct their problem. I do not believe that taking 500 people, 500 spaces in the City of Wichita, where parks do it right, keep parks clean and do a good job of housing very poor people, that punishing all of those people and all those park owners by raising expenses considerably into the millions of dollars to do additional screening, will help solve the problem. I just simply wanted to say, as a park owner, I feel that the parks in Wichita overall do a very good job, and I do understand the blight these people speak of. Hopefully there is some way to solve their problem. I don't believe punishing the other park owners is going to be the way to do it.

MITCHELL I move to defer this item to give the manufactured home lobbyist the opportunity to come and present the issues that she outlined in her paper. Also, if it is appropriate, ask those people in charge of the enforcement and legal issues we heard about today to also appear and see if there is some improvement that can be made regardless of whether these new ordinances changes go into effect or not.

MITCHELL moved, **DUNLAP** seconded the motion.

SCHLEGEL, I don't know if Scott or Sharon Dickgrafe can comment on some of the enforcement issues, but I think part of the impetus for these changes, especially on the licensing side, is to improve the capability of the City to enforce.

SHARON DICKGRAFE, with the City Law Department, I have worked with Scott regarding the licensing changes as well as the zoning changes. There are certainly ordinances on the book. The problem with that from a licensing standpoint is those could never be, prior to the proposed changes, be used as mechanisms to actually revoke that park's license. Currently there are no provisions in the code that allow licensing to be revoked at all. You pay the fee. You get the license. In my opinion, that has lead to some of the problems we are seeing with this mobile home park, or other mobile home parks in other parts of the city, that clearly have health and other code violations. The code inspectors have worked those violations. What we see happening is the violation is repaired on one particular unit, and then the next one comes into disrepair, and the next one, and you have this on going system. The purpose of the licensing changes is to tighten those up, give us some teeth to say that if you don't get the whole park in compliance, and work on these consistently, we are going to shut you down. With these changes, we would have a way to do that. The screening was part of a committee that Scott had worked on, regarding the South Wichita-Haysville area. I think there is certainly code enforcement going on. The problem with this particular types of units is that the landlord may own the land and someone else may own the trailer. That occupant in the trailer can change. As Mr. Anderson stated, they might be illegal aliens, and we don't know who owns the trailer. We don't know who owns the property, and it gets to be difficult from an enforcement standpoint to figure out who is the responsible party to bring it to court. By the licensing changes, we are placing that burden on the landowner to make sure that the park is brought into compliance.

ALDRICH there a couple of problems here, and a lot of it has to do with the matter of enforcement. You had the gentleman earlier that works for the Department of Justice, and I think it is a matter of enforcement. He knows there are illegal immigrants. Do your job. It is the same thing, when we have code violations. We are not just talking about there, we are talking about throughout the city. There are a lot of different hoops that one has to jump through in order to get the actual violators taken care of. We need to look at stream lining it. When there is a complaint, and there is someone in direct violation of the code, take care of it. Quit playing games, and we would not have the situation that we have now.

DICKGRAFE I understand that, but the problem with that is that these are criminal violations, which require due process. They require the individual to be taken to court. What you are saying in theory sounds great, but because of those types of limitations, we can't go out and say fix this now or we are going to take you court tomorrow. I am sure Mr. Anderson is well aware of that, that things do take time and staff is certainly aware that this mobile home park is a problem. Do I agree that if we could triple the number of code enforcement officers with the city, would it be better, probably. What we are looking at is a means to try to bring all those together. Currently there is no enforcement arm the licensing ordinances at all. Frankly, the licensing ordinance could go to the City

Council without this board's approval at all. You would be voting on the zoning requirements. Staff is recommending that the licensing go on, and part of the licensing problem was that the state law made changes that are mandated, that we can no longer license manufactured home installers. Those regulations have to be adopted or deleted no later than July 1 of this year. I understand that the board wants more time, and frankly staff may be in a situation where the licensing may have to go forward without this board making a decision on it because we are getting up to the July 1st date.

ALDRICH are we looking at revising code enforcement altogether.

DICKGRAFE we are. There are a number of committees within City Hall that are looking at blight issues, dealing with abandon houses, boarding up houses, certain areas of town. Etc. That is an ongoing process and an ongoing goal, but we need to take it in small steps.

MCKAY I don't think anybody has a problem with the licensing portion of this thing in this group, and as far as that going forward, I don't think we have a problem with that. One of the things that has been pointed out today, sure this is an isolated incident, but does this ordinance, the overall ordinance tie together with Central Inspection, to get the teeth you are talking about needing to have. I don't necessarily know that it does.

DICKGRAFE from the zoning standpoint or from the licensing stand point?

MCKAY licensing, as far as I am concerned, we don't have a problem with, but if we pass an ordinance, and we pass it on to Central Inspection, and their ordinance or rules and regulations don't interact. Lets make it work together. It shouldn't be much of a matter just to tie them together. As far as I am concerned, the licensing can go forward.

DICKGRAFE Kurt Schroeder, the director of Central Inspection, worked with Scott and I on the Zoning provisions. If you want teeth, you go back to the original draft that says everything has to be screened. As far as working with the industry, staff worked with the industry. We have made a number of concessions: that expansion of mobile homes that parks do not have to be screened, that we are allowing alternatives to the masonry fence, so we recognize as staff the folks that have spoken here today that are trying to do it right, trying to give them options to meet their needs. However, if we want teeth, we need to go back to "everything needs to be screened" that is a much easier standpoint from an enforcement standpoint. If you have a masonry wall, most likely those are going to be in good repair. If you start looking at fences that are dilapidated, falling down, etc. Is OCI on board with zoning changes, yes I think they are. Are they what staff wanted initially, no, but we have worked with the industry, which was what staff believed what this board wanted us to do, and made some concessions. Those concessions frankly took a lot of the teeth out of the original intent of the zoning changes.

WARNER it sound like you want screening, so you have something that you can enforce to revoke a license.

DICKGRAFE I don't think so,

WARNER I don't think screening is going to stop the drugs. It is not going to stop the trash, the mess. It is not going to stop the illegal immigrants. Screening is not going to do it. If the screening is the number one issue, that mobile home people don't want is to spend a million dollars to put up a screen, so maybe the trash won't blow so bad, but it will not stop the other elements. It looks like an awful expensive requirement for somebody to have to do so the City of Wichita can revoke somebody licensees if they don't do it. It seems if it is not healthy and not clean and it violates all these other ordinances, why in the world can't they stop it that way.

DICKGRAFE we are adding those ordinances also as part of the license revocation. The screening came out of a different study. I may defer to Scott, but I think if you ask these people what they would rather live next to a screen or without a screen, they want it screened. Is that going to get rid of the problem? No. Will it make it less visual and allow these people to have higher property value and perhaps a better quality of life? That would be up to those individual people. I am not pushing anything. I am the drafter, but I do think the licensing changes are necessary because we do have parks that are not complying with the regular rules, the housing code violations, the health code violations, and those are not the folks that attended all of the meeting with the industry. We are talking about two very different groups. I agree, is it fair to penalize one group for another group, that has to come down to equality and a policy decision, and I am not the policy maker. We are looking at that, but if you are looking at a criminal penalty, the constitution is going to require us to do certain things.

MARNELL there were a couple of things I heard from the gentleman for the US Attorney's Office that seemed disturbing. That he had the attitude that we needed to do something immediately without consideration of due process, and that is what it sounded like. The second was that it took forever to get anything done. Are the time frames here too broad? Why does it take to years to enforce something?

DICKGRAFE there are a number of reasons, you have to find the correct person, the owner of the property, or the owner of the mobile home. Unlike any other type of property, those could very well be two different people. The person, if they do not receive the notice, you have to have the notice delivered to them. You have to give them some notice of what it is that has to be fixed. After that process, OCI has in the past allowed extensions to allow the person to get it brought into compliance. That has been a policy decision for the City Council as to how those codes were enforced. The goal is not to be punitive. The goal is to make sure that the property is brought into compliance. At that point, if they are still not in compliance, they can be placed into the court system. As Mr. Anderson said, that takes forever. The one change that was made in the licensing provision based on conversations with the manufactured home parks was to allow them to continue to operate during that appeal process. I agree that will postpone, or certainly lengthen, the amount of time that these cases are floating around when we are trying to shut a park down. That was another concession that staff made in dealing with mobile home industry.

MARNELL I think that is a proper one, because we hear people who talk about a specific problem, and I think that they have one, but we can't do this as though that is what everybody operates as, and this is the loaded gun ordinance. We need to look at it in a broad since. If you had a business, and the government was trying to put you out of business, you would want all the legal recourse that was available to you in a proper manner.

DICKGRAFE I don't think this is a shot gun wedding, I think Scott and I agree that it will take a long time, and a significant number of violations, before the City is going to try to revoke a license. We have to have a reasonable basis to revoke a license. If there are shingles missing after a hailstorm, are we going to revoke that license? Probably not. If we are talking about the magnitude of violations that are occurring in this park, as well a couple of other parks in town, I think that is the purpose of this ordinance is to at least allow us the enforcement mechanism that we don't have from the licensing standpoint.

MARNELL do you think this particular ordinance as it is drafted now strikes a proper balance that you would be able to rapidly go after people who are ignoring the code and operating an unsafe environment versus protecting the rights of legitimate property owners?

DICKGRAFE I would have liked to see the time that we allowed some of these parks to fix the problem shortened. We agreed with the manufactured home association that they would be given a written notice and 30-days to comply with that notice, which is similar to the housing code violations. Again, I think it depends upon what the violation is. If it is trash blowing, it shouldn't take them 30-days to pick that up. If it is a mobile home that has been burned out, then maybe it will take 30-days to deal with, maybe it won't. Certainly, we need some way to get those parks attention and to have the appropriate enforcement mechanism, which right now under the licensing ordinance we don't have. The licensing ordinance right now says you tell us who lives there, you pay the fee, and you get a license.

HILLMAN, I understand you are under the July 1 deadline.

DICKGRAFE for the electrical changes that are also part of this code, that is correct, the electrical and the manufactured home installer licenses. The federal government several years ago took away local authority to licenses manufactured homes installers.

HILLMAN is there a portion of this agenda item that we could pass today, in your judgment, that would relate to the licensing side, less to the changes in the other codes, that would meet your needs.

DICKGRAFE it would be possible for staff to go through and take out the provisions that deal exclusively with the licensing of manufactured home installers. Generally, the Council likes all changes for one topic to be all at one time. That is what we are trying to strive for. If it gets to be June 1st and we are still here, most likely I would go ahead and put installers issues on the agenda.

HILLMAN then you do have the ability to do that? I know we all want to get this right, but that being the case, I would support the deferment that we are discussing.

SCHLEGEL I feel compelled to go on the record that the Council, the elected officials from both governing bodies, the County Commission and the City Council that have been promoting these changes really do want you to take action as soon as you can and get it before the two governing bodies.

MARNELL I know they have that desire. I've heard that before, but it seems we are heading for a mistake. Once this thing has gone through, it is done and we are off to another issue, and they are off to another issue, and we don't ever get it right. When we had the Advance Plans meeting, we didn't have this group here talking about this kind of problem. We had the owners talking about the owners part, having to do with the financial part, and the property ownership issues, which I think are important, but we never heard the other side of this. I think if we spend a little bit of time and actually get it right, it gets a better balance between those two issues. If the city, in order to stay in compliance with federal law, needs to go ahead and make some changes to the code that has to do with installers, then they should do that. I don't think we would be doing our responsibility to do a lousy job to get it through just so they can be happy.

JOHNSON I would like to ask you, if there was a substitute motion made that we would approve the licensing portion of this, which would answer the majority of this, let's defer the landscaping and screening requirement for two weeks for them to come back with some solid numbers. I am hearing some of this information for the first time. It appears there is one or two particular places that we are trying to correct, and we are going to try to change everything to correct them, and I do not feel comfortable doing that. If there is a motion made like that, does that get...

SCHLEGEL it is like what Sharon said, with the Council and the County Commissioners, they want to see is this presented to them as a packet for their consideration, not a separate licensing code revision and then later the zoning code revision.

JOHNSON if they ended up saying that is what they wanted, then I guess I'm curious if they are ready to make a statement to the people who are in here of how quick this problem is going to be taken care of, once we have moved on it. They talk as if it has been for a number of years. Is it going to be another 15 or 20 years, and some of us won't be here to worry about it?

SCHLEGEL what we heard today was about a lack of code enforcement, and what you heard from Sharon Dickgrafe was that we are trying to beef up the licensing code. The city is essentially toothless when it comes to enforcing anything in the mobile home parks right now. Where as I don't think these revisions that are being proposed give the 10-foot fangs that some people would like, it at least gives the City some teeth to go out and do some effective enforcement. We have no enforcement now. We are trying to get a more effective level than what it is presently. Now if it happens over night or not, we are trying to balance out property rights and trying to get things correct in the neighborhoods. You do have to allow for some due process in the procedures. It is not going to satisfy some of the people that have testified today. They want the problem taken care of tonight, and it will not happen that way. What is being proposed in the licensing, those changes will get the City going in the right direction, and in time, they will start to see code enforcement actions.

JOHNSON my concern is with the landscaping. It is going to increase the cost of operating a mobile home park. Now, does that force more parks that are halfway decent to become apart of this? Secondly, I don't know that I want them totally screened. I want to see what is going on in there, so if there is a problem, and it needs to have law enforcement called or whatever, there would be some way of doing that. If we just screen them, we turn our backs on the issue, and say whatever is going on inside the screen, so

be it. That is my problem. I have no problem with the licensing. I think that needs to happen. I will make the substitute motion on the licensing portion, not doing anything on the landscape.

JOHNSON SUBSTITUTE MOTION

MCKAY could we ask the people doing the work, what would be the proper motion to move the license portion forward.

BISHOP I am not going to support the motion. I am in favor of screening. I think a lot of time what you have with the density of the development for a mobile home park, what you have is a lot of automobiles and generally what people want screened are automobiles. That is also true for multi-family developments. Many multi-family developments plan their garages, carports, or landscape screening for that purpose, because it makes it a pleasant place to live. I have heard about this Pleasant Valley mobile home park for 20 years. It has been going on for 20 years. I understand the City's process in trying to take somebody to court when you have an essence a rotation of ownership. You serve somebody one day, and they are gone. The next week and somebody else is the owner. It can't be done. I think licensing, I would like to see the licensing process stringent, and the 24-months is going backwards. I realize there has been a lot of compromise on the situation. I think it has been worked over thoroughly, and I am ready to move forward with it.

ALDRICH I have a problem with the screening because I think all you are going to do is put a bubble over a bad situation. That is not fixing the problem or controlling the problem. I don't see how the screening would do that, just hide the vehicles. They might as well do that for duplexes. We might as well do it for normal buildings, residential that have more than one vehicle. That is not what the problem is. I firmly feel that we have an ordinance, we have laws on the books, and it just needs enforcement. There is too much red tape that one has to go through to take care of right situations. If we didn't have all that junk that we have to go through to enforce the laws, I don't think we would be here right now. Enforce the right issues. Take care of it.

BISHOP I would like to suggest one thing. I mean this very sincerely. Go down to Environmental Court, and sit in on it. Maybe once a week for a month's time, and you will see what the problem is.

KNEBEL, Mr. Chairman, Mr. Johnson, and Mr. McKay asked the question if it would work logistically for this Commission to approve one ordinance and not the other. These two ordinances are tied together, and that is why we are presenting them as a package. They build upon one another. If you approve one and not the other, then neither is going to work. You can take the screening out. Say you want to take the requirement of the screening out of the licensing ordinance. That would be just one other way that a manufactured home park could not comply with the licenses, but there are still others. The way these two ordinances work together, for a non-conforming manufactured home park, like the one we are hearing about here today, the license is revoked through the licensing ordinance and then the zoning code, since it is non-conforming, the failure to maintain a license for a park for a 24 month period, it then loses its non-conforming status and becomes an illegal use.

WARNER we have a motion on the floor to defer and a 2nd, is there any further discussion.

JOHNSON are we going to make a substitute motion to approve with the exception of the screening on Section 7.

ALDRICH 2nd

SCHLEGEL asked for clarification on the substitute motion.

KNEBEL are you referring to Section 7 of Attachment 2 on Page 3 of the zoning ordinance that requires screening for a new manufactured home park along an arterial or collector? As I understand it, the recommendation is to approve as presented with the exception that on Page 3 of Attachment 2, Section 7 would be eliminated. Donna asked if Section 8 tied to Section 7, and it is not.

JOHNSON presently there is no requirements on existing mobile home parks for screening?

KNEBEL that is incorrect. There is no requirement to screen along an arterial or collector street for an existing manufactured home park. The current zoning code has, since 1997, required side and rear property line screening for manufactured home parks that abuts property that is zoned TF-3 or more restrictive. That is in effect today. The licensing recommendation is that in order to renew a license for a manufactured home park, you would have to come into compliance with the existing screening regulation of the zoning code within a certain period of time, even though you weren't originally required to screen when the park was developed.

MCKAY I'm confused. You are saying that you can't pass one without the other, but the legal lady said you can.

KNEBEL there are portions of licensing regulations that the City of going to be obligated to take forward, but in terms of addressing the issues that have been discussed today, in terms of enforcing the licenses themselves, the two don't work without one another. You can take this forward by eliminating the current licensing requirement for a manufactured home installer, but you can't just pass one ordinance and not the other.

MCKAY that the portion I don't think anybody has a problem with, the fact that you can move forward with.

DICKGRAFE we can do that. It is just a matter of what the Council as directed staff to do. Council has directed staff that they want it all in one package. Can we pick out the screening requirements out of the licensing code that is presented, yes? I would agree with Scott that it does not make much sense if we are going to come back and still ask the Council to have those screening requirements, but can I do just the installer revision that are required by July 1. Yes, I could do that.

MCKAY that's what I am concerned about, but I am also concerned about some of the things I don't think have been taken care of even though you have meet with Central Inspection. They have not coordinated to use the same rules and regulations for the mobile home parks that they can for single family homes. I would hate to see this take the next step forward where there are neighborhoods that we don't like, so now all those people have to build a fence around their property, because nobody likes them.

MARNELL what is the timetable this is one? If we did, in fact, defer this, and if we had another Advance Plans Committee meeting to work on this and have legal show up, which was not at that meeting, and we heard none of this information presented on the enforcement. We heard about financial issues and the owners, and the building expenses for fences everywhere. I would think we could work this out in one meeting and be done with it.

KNEBEL in terms of getting this to the City Council for them to adopt an Ordinance by July 1, if you defer today, staff will be under obligation to split the two and present it that way because of the nature of the way the process works.

SCHLEGEL you are talking about getting an action from this board at the May 18th meeting? Then we would have three Council meetings in June.

KNEBEL I thought he was talking about having an Advance Plans Committee meeting, and then bringing it back to the Planning Commission which would take a month.

SCHLEGEL are you trying to get something done by the May 18th meeting?

MARNELL what I see us having to comply with is July 1st, and if you are telling me that if we don't get it done by the 18th of May, it can't make it through the process because of legal notice requirements, then we can't do it.

SCHLEGEL the problem we have, there are only three Council meetings in June, the first three Tuesdays of June. If we slip this into MAPC action on these ordinances into June, we will not get it adopted by July 1st.

MARNELL is that because of the notice time requirements?

SCHLEGEL we could not get it onto a Council agenda in time.

MARNELL I just hate to see us pass what I think collectively is a flawed ordinance.

SCHLEGEL you have the option of voting against it.

WARNER but we don't have the option of improving it.

SCHLEGEL you do, but we are talking about timing issues here.

MARNELL the substitute motion on the floor is to approve the ordinance.

JOHNSON I am going along with the motion to defer. I am withdrawing my substitution motion.

ALDRICH I withdraw my second of the substitute motion.

MOTION ON FLOOR TO DEFER

WARNER it has been moved and seconded, can we put some time on it, with the provisions that it goes to Advance Plans next week and before the Commission at the next meeting?

MARNELL assuming if we defer this, will the City Council and the County take it as it is and pass it anyway.

WARNER sure absolutely.

MARNELL my wanting to defer this has nothing to do with frustrating either governing body, it is just trying to get this thing correct. If we are going to defer it and they are going to pass it anyway, it just seems pointless.

SCHLEGEL I would not want to suggest to you that your deferring it to try to improve it would be pointless. I think they would appreciate any effort towards making this a better ordinance.

MARNELL how do we do that and still ensure that if we can't get a work product there in a time frame that would fit them? We could make it complicated that this goes forward unless we substitute a revised one before in the proper time frame. I don't know if we can or not from what I am hearing.

MITCHELL is there any reason why Advanced Plans cannot hear it in time for the Planning Commission to hear it on May 18th?

SCHLEGEL No, do you want to schedule an Advance Plans Committee meeting, either next week or anytime before the 18th that would be great.

DUNLAP I would like to schedule a meeting next Thursday, at 7:35 in the morning.

ANDERSON would you still present the staff recommendations to the City Council?

SCHLEGEL what we will present is all the recommendations that have been made, from staff and MAPC.

ANDERSON in other words, if you have already acknowledged the fact that the City Council has apparently made instructions to somebody to bring back an ordinance like this, that is what they are going to do. I think we are blowing smoke. Lets get on with it.

MCKAY I disagree with the Don. If staff could come back to Advance Plans Committee and say, this ordinance meets and matched together with the Central Inspection department and this is the primarily for this particular area, or this particular region of enforcement, I think it will satisfy the majority of us. I have been here too long that if we pass something and Central Inspection could not take care of it and 3 years later we are back here doing all kinds of different stuff because we did not take care of it then. I think everybody sitting here talking feels that frustration. It always comes back on this group saying they didn't do their job. We try to do our job, but everybody is always in a big hurry to get things taken care of because of a deadline. We could have taken care of it before the deadline. How long was this in the works?

DICKGRAFE, 2 years.

MCKAY if we heard it six weeks ago, I'm talking about the ordinance.

ANDERSON I think what we ought to do today is approve what the staff is recommending to us in terms of this ordinance. Get it done.

BISHOP do you want to make that a substitute motion I will 2nd it.

MARNELL I am going to support the motion to defer, but I am going to tell you under what basis. Legal and code enforcement staff need to show enough interest to show up at the Advance Plans Committee meeting.

WARNER we have a motion on the floor to defer this and assign it to Advance Plans for next Thursday morning and to be back before this group at the next scheduled meeting, which is May 18. All in favor of the motion signify by saying aye, opposed.

DUNALP 2nd

OPPOSED BISHOP AND ANDERSON

May 4, 2006

5. **Case No.: ZON2005-58** – Abiola Dipeolu & Joseph Donaldson Request Zone change from "TF-3" Two-family Residential to "NO" Neighborhood Office on property described as;

The West 10 feet of Lot 678, and all of Lots 679 and 680, Overlook Addition, Wichita, Sedgwick County, Kansas.
Generally located West of Oliver Avenue, on the northeast corner of Central Avenue and Crestway Avenue.

Wichita City Council April 4, 2006, returned to MAPC for reconsideration

BACKGROUND: The applicants request "NO" Neighborhood Office zoning on the platted 0.22-acre site, which is currently zoned "TF-3" Duplex Residential. The site is located on the northeast corner of Crestway and Central Avenues. The site's current structure appears to be what was originally a single-family residence (approximately 1,428-square feet, single-story, wood lap siding, built late 1920s), facing Central with a detached single car garage in the back. Access to the garage is off of Crestway. There is a paved alley (which is blocked off by a fence located east of the site) abutting the back of the site by the garage, with a graveled area abutting the east side of the garage. There is a 6-foot wooden privacy fence around the back yard of the site. The applicants propose to convert this residential structure into an office. It appears the applicants have already begun the conversion and have a sign posted in the front yard advertising the business. The applicants were advised that the Unified Zoning Code (UZC, Art. IV, Sec. IV-E) permitted his proposed business as a "home occupation, office facilities". The applicants have stated that the office will be operating without an occupant on the site, thus canceling a possible "home occupation" status and that they also wanted a larger on-site sign than what was permitted for a home occupation. Staff also advised the applicants that a variance could be applied for, in regards to the sign they wanted and that is currently on site, if the office was operated as a "home occupation".

"TF-3" zoned lots that have been developed as duplexes are east of the site, extending up to where the block ends at Terrance Drive. The next block east of the site east is zoned "TF-3" and "MF-20" Multifamily Residential, and is developed with duplexes and four-plexes, with the exception of the east most corner property being zoned "GO" General Office. This "GO" zoned property is almost two blocks away and is the nearest nonresidential zoning on the north side of Central. The "GO" zoned property is also the west most extension of the commercial ("LC" Limited Commercial) zoning located around the Central – Oliver Avenues intersection, on the north side of Central. South of the site and across Central properties are zoned "TF-3" and "SF-5" Single-family Residential with development being overwhelming single-family residential. There is "LC" zoning almost two blocks east of the site on the south side of Central. Like the previously mention "GO" zoning, it is the west most extension of the commercial ("LC") zoning around the Central – Oliver Avenues intersection. "TF-3" zoning and a mixture of mostly single-family residences and some duplexes are located west, across Crestway Avenue, of the site. The nearest commercial/office zoning west of the site is seven blocks away. "TF-3" zoning and a mixture of mostly single-family residences and a few scattered duplexes are north of the site.

CASE HISTORY: The application area is platted as Lots 679, 680 and the west 10-feet of Lot 678, the Overlook Addition. The Overlook Addition was recorded with the Register of Deeds April 2, 1914.

The MAPC considered this case at their February 6, 2006 meeting and recommended denial, 6-5, of the requested zone change to "NO". DAB I considered this case at their March 6, 2006 meeting and recommended denial, 8-2, of the requested zone change to "NO". The WCC considered this case at their April 4, 2006 meeting and recommended the case go back to the MAPC for reconsideration, based on the applicant requesting an opportunity to present new information on the case. At the time of the mail out of the case to the MAPC, the applicant had not presented any new information to include in the MAPC's case packet for the MAPC May 4, 2006 meeting. Per a phone conversation with the applicant, in reference to any new materials for the MAPC to consider for this case, staff's impression is that the applicant will make a photo presentation to the MAPC.

ADJACENT ZONING AND LAND USE:

NORTH: "TF-3"	Single-family residences, duplex
SOUTH: "SF-5", "TF-3"	Single-family residences
EAST: "TF-3"	Duplexes
WEST: "TF-3"	Duplexes, single-family residences

PUBLIC SERVICES: Current traffic counts on this segment of Central Avenue are approximately 20,326 vehicles per day. Central is a four-lane, arterial street at this location with a 40-foot half street right-of-way (ROW). The 2030 Transportation Plan indicates no change in classification for this section of Central. Crestway Avenue is a paved residential street. The application area currently has no drive onto Central, but does have a drive onto Crestway. All public services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area as appropriate for "urban residential". The range of uses in this category include single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, parks and other similar residential serving uses may also be found in this category.

The Guide classifies the proposed office use as "local commercial". The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request does not conform to the Land Use Guide. The 2030 Transportation Plan projects this section of Central Avenue, between Oliver and Hillside Avenues, to remain a four-lane arterial, which is its current status and configuration. As observed, development around this section of Central is mostly single-family residential, fewer duplexes and even fewer four-plexes. Beyond this section of Central, east of Oliver and west of Hillside, Central is a five-lane arterial and the development around it is primarily commercial/retail/office. The conclusion can be drawn that the intent of the 2030 Transportation Plan for this section of Central would be to maintain the current residential development abutting it rather than phase it out with nonresidential development. In other words a change to a five-lane arterial status would have indicated the current residential development was declining to the point that the land use along this section of Central was in transition from low density residential to office/commercial and thus the "stripping out" of this section of Central would be appropriate; the 2030 Transportation Plan does change this section of Central's status as a four-lane arterial. The Comprehensive Plan's "office" locational goals indicate new strip development should be regulated to areas identified as "local or regional commercial" on the Land Use Guide. The Land Use Guide shows this site as appropriate for "urban residential". This site is a mid-mile site that is also inconsistent with the "office" location guidelines, which identifies "office" zoning as a transitional zoning that buffers residential zoning from more intense "commercial" zoning. Approval of the "NO" zoning at this location would insert a less restrictive zoning into the residential zoning/development without any buffering afforded by a transitional zoning pattern.

RECOMMENDATION: The applicant's request is spot zoning and would be the first rezoning to allow isolated non-residential development to be introduced into the middle of the low-density residential neighborhood. If approved the requested zoning would encourage the breaking up of the current low density residential development along Central in a random and unpredictable manner with no transitional zoning to protect the remaining low density residential development. Therefore, based upon information available prior to the public hearings, Staff recommends DENIAL of the requested "NO" zoning

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This proposed rezoning and land use is out of character with neighborhood's "TF-3" and "SF-5" zoning and its mostly single-family residences and duplex residential development. The nearest existing commercial/office zoning in the area radiates out from the Oliver – Central Avenues intersection, along Central, approximately 2 blocks from the site.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as a single-family residence or as a duplex as currently zoned. For the proposed "NO" zoning and office use the site is small and on site parking appears to be problematic. Currently the site has no access onto Central Avenue, but instead uses Crestway Avenue, a residential street, for access.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed "NO" zoning would allow nonresidential development to be introduced into the low-density residential neighborhood, at a location in the middle of the block. Allowing the proposed "NO" zoning could possibly lead to the beginning of the "stripping out" of Central Avenue in a random and unpredictable manner, which would compromise the low density residential neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as appropriate for "urban residential" development, which the proposed "NO" zoning is not in conformance with. The proposed rezoning is not in conformance with the Office Locational Guidelines of the plan, in that the site is not adjacent to existing commercial development and zoning, and would not serve as a transitional land use from more intense development to the existing residential development along this section of Central Avenue.
5. Impact of the proposed development on community facilities: The proposed office development could increase traffic at this location on Central.

SCHLEGEL Council sent this case back to the Planning Commission because the applicant had indicated they had new information for them to consider

BILL LONGECKER I'm not sure what the applicants' new information is, I'll let the applicant make that presentation. Staff's recommendation remains the same and I'll make a presentation if the Commission wants me to.

WARNER We've heard it once, lets hear the new stuff.

APPLICANT JOSPEH DONALDOSN, Director of First Stop Rehabilitation and Behavior, address is 4402 E Central. Mr. Chairman and Commission members thank you for having us here again. As mentioned earlier, this meeting is about our sign. I want to let you know that we are a Vocational Rehabilitation planning services and mental health treatment firm. We work with people with physical disabilities, assisting them with returning to work. We also provide mental health services for individuals, couple, and families, which are referred to us. Several businesses are located within one block of First Star, consisting of home occupations, general offices and others. A business called King Treatment Center, located at 4515 E Central, is less than one block away. During the last meeting one of the Commission members asked if we were going to provide alcohol and substance abuse on one of the properties, we stated that we would not. Now we see here that this service has already been provided not less than one block away. Here are some other businesses in the area, 4516, right across the street from the King Treatment Center. This business, American Family Insurance is next to that building. C Downs Reality is down the street, and then the dentist office at Central and Fountain. This business four blocks away from us, four blocks west has a sign made similar to ours with one exception, theirs is lighted for night viewing. Also during that last DAB meeting Councilman Brewer asked Mr. Longnecker the question, why was the dentist office allowed to have a lighted sign that was not in line with the code for home occupation, and we asked for an explanation about the exception that was made for this home office. We are here because of our sign. We simply respectfully disagree with Mr. Longnecker's findings that we are attempting spot zoning. Since this issue in February, 19 of 20 owners have no complaints of our business or its operation. In addition, since the issue, the only owner to complain is the owner Ricky Powell, and he is the neighbor to the north. His objection is centered on the issues of the alley and the potential danger of additional traffic opposed to grandchildren and neighborhood children that play in the alley. Since February, we have not seen any of our neighbor's grandchildren, nor neighborhood children playing in the alley, just on Crestway north of our property. The time business is conducted should be considered as well. Most children are in school the times we do conduct our business. We see clients from 8:00 a.m. to 3:30 p.m. The rest of the time, from 4:30 to 10:00 the business is doing additional paperwork. We have approximately 11 clients that come in on a regular basis. They do not come at the same time, and they come at different times and only at scheduled appointments. We do not take clients off the street; in fact, all clients are referred. Most clients are dropped off and picked up by family members, and community workers. There is not a significant need to drive through the alley or to use the parking, however should the need arise for the parking space to be used, that is why we have three spaces for that. Clients are dropped adjacent to the building. The clients we see have rarely used the alley entrance off Crestway and when they do, they do not drive through the entire alley. The entire length of the alley that is driven through is most often used by Ricky Powell and his tenants. We disagree with Mr. Ricky Powell that by becoming a neighborhood office that traffic flow would increase in the alley, obstructing his access and causing a danger to his children and neighborhood kids. There will not be any obstruction or interference of Mr. Powell's uses of the alley since there are two entrances and exits to the alley. (Showing both on slides.) The west entrance exit in the alley is directly in front of his two-car garage. There is a significant point we would like to make, whether we are granted Neighborhood Office zoning will not stop any traffic usage of the alley. It was designed that way by the City of Wichita. Therefore, the possibility of alleviating danger to children playing in the alley will not be affected. In fact denying us the neighborhood zoning will increase the usage because of family members, friends and other which come to visit. Beside the possibility of clients using the alley to access our parking spaces, by granting us the Neighborhood Office zoning we will only use the parking area for business purposes only, lessening any possible additional traffic related to our property. We encourage you to drive through the alley unannounced and at your convenience. We mentioned that you would find there were no children playing in the alley and the alley is hardly used at all during the day.

ALDRICH I didn't hear you, what is your address?

DONALDSON 4402 E. Central.

ALDRICH What is the address of the office use?

DONALDSON 4402 E. Central

DOWNING Sir, are you currently offering counseling services at this location.

DONALDSON Yes as a home occupation.

BISHOP So you are living at the office?

DONALDSON It is a home occupation. That is also the address where I also live.

BISHOP Why the zone change?

DONALDSON I got married, and I would like to change residences as well have the opportunity to come and go in my office. We still do the same kinds of things. We want to use it as a neighborhood office.

HILLMAN You said everything has a scheduled appointments, so if there were any conflicts say between 3:00 and 6:00 p.m. with neighborhood kids, you may not have appointments during that time because appointments will be earlier or later.

DONALDSON We strictly have appointments during those times, but we also work on Saturdays from 9:00 to 12:00, so if there is any time that we miss an appointment for whatever reason I make myself and my partner available at that time as well.

ABIOLA DIPEOLU, I am a professor at Wichita State University, and a Professor with the School of Psychology. I live at 641 N Woodlawn, Unit 9, 67208. The issue of children in that alley is not an issue. Secondly, with my position as a Professor of School Psychology, I teach my students about the ethics of working with children. I am concerned about children also. If I see any child

playing unsupervised in an alley that is made for traffic, it is almost like child endangerment, or neglect. I clearly teach my students, you don't have to think about everything, just call SRS, and let them make that decision. With that issue, I think that has been taken care of by our law. We have tenants also, and we are concerned about their children. Two of our tenants have children also under the age of five, and could you believe that none of them allowed their children to play in the alley without us having to tell them. They know instantly that you shouldn't have children playing in the alley. To reinforce what my partner said since the time we have been here, we have not seen a single child playing in the alley.

WARNER Your time has expired.

MARNELL I do have a question on the other half of the application. In our report, the attachment you provided, point number 6 said, "since this issue began on February 2, 19 of the 20 owners or business have not complained. Where are the 19 and where is the 1? What does that mean?

DONALDSON Information was sent out about the changing of zoning and 20 property owners were notified with the ownership list we provided.

MARNELL There were 20 owners notified, and one out of the 20 complained about the traffic in the alley affecting his children.

DOWNING In the staff report it states that the applicants have stated that the office will be operating without an occupant on site, and today the requestor has said that this is his residence; do we know the resolution to that issue?

LONGNECKER When the application was made the applicant said they were not going to live there. At the District Advisory Board, there was discussion if the applicant was living there now or if he planned too. I don't think the status of residence has been resolved.

DOWNING Is this service authorized in the "TF-3" zoning?

LONGNECKER As a home occupation with the standards as stated in the zoning code.

DOWNING With a resident living in the building.

LONGNECKER Correct.

BISHOP My understanding when I asked the applicant the question is that yes he is residing there now, so I asked him, why the need for zone change and his answer was he does not intend to reside there in the future. That is the reason he is asking for the zone change.

MARNELL As I recall from the last time, an issue was having a sign larger than what would be allowed under the home occupancy, if my memory serves me correctly from the last hearing.

BISHOP I believe the sign is what was brought to the gentleman's attention, and that he would need either a waiver of the sign ordinance or a zone change. He could have gone the other way and maintained it as a home occupation and asked for a waiver of the sign ordinance.

ALDRICH The bottom line is that the applicant still resides there, therefore the home occupation status would apply.

WARNER Would he have to apply for zoning?

ALDRICH Why would he apply, he is living there.

MARNELL The last time this came here it did not have to do with an issue of children playing in the alley. This was very close and could have gone either way. I am quite familiar with that area. This comes down if we are going to do spot zoning and strip out this area, and I think that is still the issue. This is not an issue of if this being a home occupation or not. Either it is or it isn't. If he is living there, it is home occupation. He may have to change his sign, but business goes on. What this is about is if we are going to zone it to Neighborhood Office, and if that rezoning is detrimental to the overall area. If 20 property owners were notified, and there is only one objection then there is not a lot of neighborhood opposition to it. I think I am going to change my opinion on it. I voted against it the last time and even then I could have gone either way.

BISHOP I agree with you, I think the issue is: is the area going to be stripped out? Unfortunately what the applicant was able to point out was some of the incremental zoning in the area that has happened. I think in my opinion I think it is time to draw the line. Whatever we decide here I would like to have a brief discussion about doing some kind of corridor study for that area, because we are going to see more of this. One last thing I would like to point out, no matter what the applicants' hours of operation are, or amount of traffic, or whatever, neighborhood office would run with the land. The applicant could turn around and sell it six months from now. Whatever is allowed in neighborhood office would then apply and we would not have any overview of what their hours are or how much traffic they may have.

MOTION: Approve the requested zoning.

ANDERSON moved, **HILLMAN** seconded the motion.

MILLER Just for whatever it is worth, when cases are remanded back to the Planning Commission from the City Council, there is no extra notice sent to neighbors. There was no notice for this meeting today.

BISHOP Why not? As far as they were concerned it was settled?

MILLER The Council returned this case for reconsideration because the applicant stated that they had additional information for your review. This is not another public hearing.

SUBSTITUTE MOTION: Deny based on staff recommendations.

ALDRICH moved, **BISHOP** seconded the motion.

IN FAVOR OF MOTION: MITCHELL, DOWNING, MCKAY, ALDRICH, BISHOP

OPPOSED OF MOTION: ANDERSON, HILLMAN, WARNER, MARNELL, AND DUNLAP

MOTION FAILED, 5-5.

WARNER The motion now is to approve the zone change.

MOTION: Approve the zone change.

ANDERSON moved, **HILLMAN** seconded the motion.

IN FAVOR OF MOTION: ANDERSON, HILLMAN, WARNER, MARNELL, AND DUNLAP

OPPOSED TO MOTION: MITCHELL, DOWNING, MCKAY, ALDRICH, AND BISHOP

MOTION failed, 5-5. A tie means that the motion failed and that the zoning change request is denied.

BISHOP I would like to ask the Planning Commission to consider asking staff to look at the possibility of looking at a corridor study for certain area of central. We are finding increasingly problems with stripping out issues and mid-mile development, and the concurrent development of residential properties. In the older areas like this one, where we have a neighborhood type situation and stripping out is continuing. I think there is a lot of uncertainty that people in those areas need to have clarified.

WARNER That issue needs to be brought up another time and in a different forum.

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6. **Case No.: ZON2006-17** – Dennis Niedens Request Zone change from “SF-5” Single-family Residential to “MF-18” Multi-family Residential on property described;

Lots 28 and 29, Linwood Acres Addition to Wichita. Generally located North of Lewis and east of Greenwich.

Deferred by staff as the ownership list was found to be in error, will be heard on June 1, 2006.

7. **Case No.: CON2006-14** – David C. and Linda J. and Amanda R. Castleberry Request Conditional Use for bed and breakfast on property zoned “SF-5” Single-family Residential on property described as;

Lot 6, Spray Lake Addition, Sedgwick County, KS. Generally located North of 63rd Street South and 200 feet west of Hydraulic.

BACKGROUND: The applicants are requesting a conditional use permit to allow a bed and breakfast inn to be operated at their residence at 1500 East 63rd Street South. The lot is 4.35 acres and is located on the north side of 63rd Street about 200 feet west of Hydraulic. The home is set back approximately 455 feet from 63rd Street and is situated on Spray Lake with long circle rock driveway providing access to the road.

According to the Unified Zoning Code (UZO), a bed and breakfast is an owner-occupied or manager-occupied residential structure that provides rooms for temporary lodging or lodging and meals for not more than 15 transient guests on a paying basis. A transient guest is a person who occupies a room for a period of less than one week at a time.

The surrounding properties are predominately residentially zoned either SF-5 Single-family or RR Rural Residential and used for residential and agricultural purposes. However, the adjacent property to the east, which fronts on Hydraulic, is zoned GC General Commercial with warehouse/storage land use. The northeast corner of 63rd Street and Hydraulic is zoned LC Limited Commercial, but is currently vacant.

The existing house is two stories with five bedrooms and four bathrooms. The applicant's family occupies two of the existing bedrooms and the intent is that the conditional use would occupy only two of the additional bedrooms. The proposed use will be no more intense than if the applicant had additional family members occupying the extra bedrooms. Additionally, due to the site layout, activities occurring behind the residence are screened from adjacent properties. Therefore, staff is not recommending any additional required screening or landscape buffering.

The Wichita Environmental Services Department has serious concerns regarding the ability of a septic system to adequately service the proposed bed and breakfast use. Environmental Services staff cites a past septic system failure at this location as a cause for concern. Two factors exacerbate the problem. First, site development, such as the driveway, hampers the functionality of a septic system. Second, shallow groundwater in the vicinity, particularly given the site's adjacency to Spray Lake, is a cause for environmental concern. The Environmental Services Department recommends strictly limiting the intensity of use until either: municipal sewer service is available to the property; the applicant installs an adequate septic system as approved; or, until the applicant receives approval for the existing septic system.

CASE HISTORY: The property is platted as Lot 6 of Spray Lake Addition and is currently under conditional use CU-217, which authorized the sand and gravel extraction activities to create Spray Lake.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	RR	Agriculture
EAST:	GC	Warehouse/outdoor storage
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: Access is from 63rd Street, which is classified as a principal arterial and has an average daily traffic count of approximately 7,500 vehicles. 63rd is two-lane with a 120-foot right-of-way abutting most of the application area. The right-of-way flares out to 150 feet approaching the Hydraulic intersection.

The site is on private well and septic systems, however municipal water service is available. The nearest municipal sewer service is approximately 5,000 feet to the north, at the intersection of Hydraulic and 55th Street South.

CONFORMANCE TO PLANS/POLICIES: The Functional Land Use Guide of the Comprehensive Plan identifies this area as appropriate for urban residential development.

The UZC allows bed and breakfast as a conditional use in the residential zoning districts in compliance with UZC site requirements for parking, screening, lighting and compatibility setback standards and with Landscape Ordinance requirements. No specific requirements are included in the UZC for bed and breakfast inn other than the stipulation that it be an owner-occupied or manager-occupied structure.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED, subject to the following conditions:

1. The site shall be developed and operated in general conformance with the approved site plan and landscape plan.
2. The applicant shall obtain written approval from the City of Wichita Environmental Services Department certifying that the septic system will adequately service the proposed bed and breakfast use; or, the applicant shall connect to municipal sewer services. The applicant shall provide MAPD a copy of the approval or proof of municipal sewer service prior to the commencement of any bed and breakfast business.
3. The applicant shall obtain all inspections, permits and licenses from applicable agencies and governing bodies prior to operating the bed and breakfast inn.
4. There shall be two rooms designated for the bed and breakfast business and there shall be a maximum of four transient guests at any one time.
5. Signage shall be per code or the following, whichever is more stringent: No freestanding sign shall be allowed. One building wall sign shall be permitted to identify the establishment. This sign shall be mounted on the front façade of the house, be no more than nine square feet in size and be lit with indirect lighting only or no lighting. The Code Enforcement Office shall review and approve the sign as to compliance with the location and materials required.
6. Two paved and marked parking spaces shall be provided onsite, in accordance with UZC requirements.
7. Lighting shall be directed downward and away from adjoining properties and shall be limited to no more than 14 feet in height for any lighting, including the pole, base and fixture.
8. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the conditional use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding properties are predominately residentially zoned either SF-5 Single-family or RR Rural Residential and used for residential and agricultural purposes. However, the adjacent property to the east, which fronts on Hydraulic, is zoned GC General Commercial with warehouse/storage land use. The northeast corner of 63rd Street and Hydraulic is zoned LC Limited Commercial, but is currently vacant.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 Single-family Residential and is developed with a single-family residence. The site could continue to be used as a single-family

dwelling. If developed in accordance with the recommended conditions, the subject property should be suitable for the proposed use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The bed and breakfast inn would introduce a nonresidential that is a nominally more intense use than neighboring single-family residential uses. The existing structure is a five-bedroom home and, at most, three of the bedrooms will be occupied with the bed and breakfast use. Therefore, the conditional use should have no more impact than if the applicant's family occupied the extra bedrooms. Also, higher intensity commercial zoning and development exists immediately to the east. If developed in accordance with recommended conditions, the conditional use should not detrimentally affect nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan identifies this property as urban residential. The UZC permits bed and breakfast inn as a conditional use when it is determined to be an appropriate site for this type of use and when the bed and breakfast inn can meet site development requirements of the conditional use and the UZC.
5. Impact of the proposed development on community facilities: Municipal sewer and water does not currently serve the proposed development. Unless the subject property connects to one or both of these public infrastructure systems, there should be no impact. There should be little or no impact upon the traffic capacity of nearby streets.

SCOTT DUNAKEY Planning staff presented the staff report.

DUNLAP I think I have a question about food. This says "bed and breakfast," you said that any food preparation would require a different license.

DUNAKEY This is not a licensing provision this is only the conditional use, they still have to get a license, food handlers and appropriate licensing to do that. Under this provision, they could only serve food to those who are staying in there.

DUNLAP In order to provide for a Bed and Breakfast you have to provide a different license and you have to go to food handler's school and all that?

DUNAKEY Whatever you have to do to handle food. That is correct.

MITCHELL Is there anyone from Environmental Services here today. That is whom I would like to speak too.

DUNAKEY Yes.

CHARLES ANDERSON, Environmental Service.

MITCHELL Can you explain the difference between the system that is there now and what EPA would require that you would approve as a condition of this request.

CHARLES ANDERSON I apologize, I just got this at one o'clock today, and I have been reviewing notes. From my understanding, what we would be looking at is what extra fixtures they would have, and put it on a number of persons, maximum occupancy, and using EPA's data, then figure out how much linear footage they would need. Some of our concerns were that they used up the area that has been reserved for the septic system. As it is now, there was a restrictive covenant for that area of the septic system, and we would have to amend that covenant to create more area for this septic system. In addition, shallow ground water was an issue for us in the Spray Lake area. We may have to get an engineer to design and get the waste out of the area. It is above the water table far enough for us.

MITCHELL Does this include a mound system.

CHARLES ANDERSON Possibly, on the existing covenant there was a MSL level for that septic system pad.

MITCHELL In order to stay 10 feet above the water table at some point?

CHARLES ANDERSON Correct.

MARNELL So what this about is because this is going to be a Bed and Breakfast as opposed to a large family home.

CHARLES ANDERSON Correct

MARNELL There are some families that have 10 or 12 members, which would be more than what a "bed and breakfast" would end up with in a limited use. Is that whole area restricted?

CHARLES ANDERSON There are restricted covenants in that whole area where the septic system is supposed to go.

APPLICANT DAVID CASTLEBERRY, 1500 E 63rd Street South. We came up with the idea of having a "bed and breakfast" so that my wife could fulfill her dreams and feel more productive. We thought it would be a great place to do this. As far as the septic concerns, I can appreciate that, and I originally was the one who messed it up because I built a berm on top of the lateral lines, which caused them to mess up. I have a 17-year-old daughter going off to college next year and she uses enough water for four families. Once she is gone, I know that will clear up. The septic tank is working beautifully. The reason I want to do this is to offer a service. It is no different when you have people staying at your house regularly, using a whole place for which it was intended to do, and that is to serve people. That is why we are asking this to be approved so we can give people the opportunity to come and get away from the hustle and bustle, because we don't get that opportunity.

MITCHELL Mr. Castleberry, if it came out that in order to provide the sanitary waste provision that EPA would approve you would have to install an alternative system, or one that would cost up to five or six thousand additional dollars, are you prepared to do that in order to go ahead with the project.

CASTLEBERRY Yes sir, the area allotted originally for the septic tank that I messed up; I can go over and do something different with that area. Like take the 17 million pounds of dirt off the top of it. Yes, I am prepared to do whatever it takes.

DUNLAP You are not planning to add to the size of the home, are you?

CASTLEBERRY No sir, it is enough to vacuum now.

MARVIN STEFFEN, 1100 E 63rd Street South I am the last lot on the south side. My friend just brought the lot on the other side and she brought some good points. Here are some of our concerns. The increasing traffic around our privately owned family residence, this includes guests of the "bed and breakfast" who might walk on our common areas, including our boat dock pavilion, and other issues associated with guest parking. The genuine intent of Castleberry is a potential for them to broaden the scope of their business and include special events, which is catering. We were told by his wife that she would like to have tea parties, which is what she has been doing outside the home, but we understand is hard with her daughter. The other issue involved is the issue of liability. This could open up each of us individually or collectively as a corporation of the Homeowners Association, particularly if a child were to go into the water unsupervised. This backs up to a lake, which everybody owns. It is a common area now because it is more than five lots sold. The lake is designed for water ski tournaments and water ski events as the primary use. That is what is stated in the covenant. The problem we see is that guests will be able to use this. This is not a single house where he is going to have a fenced in yard. These yards all connect with a sidewalk. They can walk around the whole area, all 12 lots. The general upkeep of Castleberry's residence is already in existence and might further decline. It is not his residence; he has put stuff on Lot 7. He has stuff stored there. The general lack of regard the Castleberrys have for the current covenant, he violates every rule in our covenant as it is. He is not supposed to have a shed that is mobile, but he has one. He is not supposed to have livestock but he is raising ducks in a fenced in area on the lake in the water. The fence was not approved, which is stated in our covenant. The shed was not approved until after he put it on there. We all kind of agreed he needs a shed. It didn't look that bad, but he breaks about every rule in the covenant as it is. The devaluation of our property, homes and lots, if you allow the "bed and breakfast" in a community site that is all based around water skiing. The value of our lots are going down. We are not talking about \$100,000 and lower homes. We are talking 300,000 plus homes that we brought on this lake so we could use it for that purpose as a water ski community. There is the potential issue relating to the septic system, which has already once failed. I would like to point out, according to the unified code temporary lodging and meals could not be for more than 15 people on a paying basis. That rule would be broken the first time he gets the condition use. Additionally, due to the site layout, activities occurring behind the residence, this is another area in the document, it says, "screening of adjacent properties, therefore the staff is not recommending any additional screening or landscaping buffering." His house backs up to the lake. We all see what backs up to the lake. We all use the lake. Number 8 in the recommendations, it says if he breaks the rules that we can come back to the zoning code and have it enforced, but it says it may nullify, or pull his conditional use. He will break the rules, because he has done it on every other issue. I don't want to have the same problem you are having on the trailer park issue, because they are not enforcing the rules 20 years from now.

TERRY STAATS 1430 E. 63rd Street South, I am the house just to the west of him. My biggest concern is the people who will be coming in for a short period of time, mainly having younger kids, playing down by the lake. There is not way to prevent people from walking over to my personal property that I don't know. That is a concern of mine. The environmental concern is very high. We are on well water and we drink this well water. If you add basically double the size of his family on any given evening, based on the previous problems they have had with the septic system who knows what is going to get into the groundwater. I know the environmental aspects are to be looked at closely, but that is a very large concern of mine due to the water conditions, and us all being on well systems and drinking that water.

JIM BEEBE, 1212 E 63rd I am the developer of the property. I own the lot #7, next to Mr. Castleberry. I also reside on lot #2, the second from the west. Everything has been covered as far as our concerns; the only thing not covered is a signed contract between myself and Mr. Castleberry stating that he would abide by the covenants of our development. He knew what the covenants were going in. He was handed a copy of the covenants. He looked over the covenants, and now he wants to change what is in the covenants by doing the "bed and breakfast," and changing the zoning on the property. This is a very small community as you can see; there will be only 12 homes on the property when the development is completely done. It is a very unique situation. As you well know there are only two lakes in the City of Wichita, let me say three that you can utilize the water to this capacity, where you can boat and water ski and hold the kind of events that we hold. Something as this does not go in conjunction with what the original intent of the property was. Our main concern is if we do have, a "bed and breakfast" we will have people who could possible use the water, fishing, and the docks. There is an easement all the way around the lake in the Homeowners' Association covenant if people cross that line and are using the facilities on the lake then Mr. Castleberry is not liable. We are liable. The Homeowners Association is liable. Putting this business in does not comply with the covenant and the Homeowners Association if this is allowed.

MARNELL You said you hold events on that lake.

BEEBE We hold amateur water ski tournaments.

MARNELL Is that only for residents.

BEEBE We have people come in from all over the state. We have people come in from Oklahoma and Missouri. We have a ski club on the lake. It is a non-profit organization. We hold ski meets to help get qualifications for regional and national competition. This is not a profit making deal.

MARNELL Do you think this is a less intensive use than someone having a "bed and breakfast."

BEEBE That's one or two events a year, and that was in the original covenants that we could have these events.

WARNER Is the Homeowner Association liable for injury anymore so than if guests were on your property.

BEEBE We are member of USA Water Ski. We have a multi million-dollar insurance policy that goes in conjunction with the water ski events that we hold. This is to put on the water ski events. Every person that skies in the event is a member of the organization. We have a blanket insurance policy covering everybody that is in that organization.

ALDRICH When you have these events how many people are in the events?

BEEBE Probably at the most maybe 50 to 60 people.

ALDRICH Where do they go to the bathroom?

BEEBE We hold the tournaments down at the west end of the lake. We have a pavilion and dock. We bring portable restrooms for the event, and they are taken off the property after the event is over.

PATRICIA BAJAJ, 1326 E63rd Street South, I am two houses to the west of Castleberry. In addition I own lot 10, which is right across the lake from me. I purchased that with the reason of just keeping it undeveloped in nature. My concerns are as everyone else has said, but also for security. I have a gate at my front to keep people from driving in and wanting to look at the lake but around our homes is a sidewalk as everyone has said. The sidewalks run to the backside of our homes. I don't want to be out working in my yard, or sunbathing on my boat dock and have strangers walking by just in my back yard, or having breakfast on my patio and having strangers walking by. The north side of the lake as I said is undeveloped, I like to walk over there, I don't want to have to meet people that I don't know. It happens already as one of our neighbors said. Mr. Castleberry allows people to come fishing, and they will wonder around the lake fishing. The trash on Lot 7; I have pictures,

WARNER If you provide the pictures, they belong to us.

BAJAJ Again this is Lot 7, which Mr. Castleberry does not own, right here. This is not just a daily thing. Again, I walk by there. I am one of the few homeowners that walk every day, and from the picture that the zoning department took, they didn't show any of that because they don't look in that direction. It is there. I am concerned about the effect, that when I go to sell my property that if they have the "bed and breakfast," and that trash is there.

DIRK BRITTON, 1300 E 63rd Street South, that is the middle lot of the group of six, my biggest concern, when he had the septic failure the last time, there was raw sewerage running on the ground running towards on the lake for several week before anything was done about it. If he has a problem again, how long is it going to take? Also he has people already coming when he is not even at home wondering around the lake, which we tell them that he is suppose to be present, or at least at home, because of the liability issues. The shed again he moved in without asking anybody, he stated to us also, Jim and I that his wife's intention was to have tea parties, or wedding showers, he never told us the actual reason was to have the Bed and Breakfast, and the problem is what he was not honest about it.

MCKAY do you know if house built on the north side of the lake, completed the basement.

BRITTON the basement is in.

MCKAY Are they part of your ski club, too.

ALDRICH I assume they have access to sidewalk all the way around the lake too, correct?

BRITTON True, yes.

MARNELL Two minute rebuttal for Mr. Castleberry.

MR CASTLEBERRY I'd like to say that's pretty messy and I need to get that cleaned up, I agree, originally on lot 7 I looked at purchasing that and since then that has not taken place. I think some of the things said are legitimate. It's not that I have broken every covenant; it is not my dog that is in the water every week swimming, it is not my dog that knocked my wife over and caused her to go to the emergency room because it was not on a leash, or on top of my grill. Many people are guilt of breaking the covenant but to say I have broken everyone is ridiculous. It is not true, I do not have any live ducks in pens, and they have been gone for over a month. The Homeowners covenant says that you can have a home professional industry may be conducted as long as it is a said business conducted in your home, garage no commercial signed advertising and not more than three employees. As far as the ski tournament, they placed a sign advertising it also. In addition, in the covenant if you are a club member not associated you can pay the fee, come out, ski, and not tie up one home but the whole lake and the commons area. All I want is the right to get to play also. I am not asking for any of those things. As far as transient, I don't meet many people transient. When you go around the place most don't know the friends we have already, so I couldn't tell you who they are anyway. I don't know Terry's friends. I don't know Jim's friends. I don't know any of their friends. So anybody there is a stranger to me. That is okay. I am going to love my neighbor. I love my wife more than I love my neighbors, and I just wanted to see that she had a wish fulfilled. Thank you, I appreciate the fact they, they stand up for what they believe in.

MOTION: Deny the application on the basis that this is an inappropriate use in an unusual community that has community property that would be difficult to control under the conditions permitted in a "bed and breakfast" situation.

MITCHELL moved, **WARNER** seconded the motion.

SUBSTITUTE MOTION: To approve it with staff comments for two guest rooms with four guests in the Bed and Breakfast is not a burden.

MARNELL moved, **ANDERSON** seconded the motion.

MOTION CARRIED: (6-3)

SCHLEGEL, Scott will provide what the staff conditions were. This conditional use is final unless this is appealed by an interested party. Scott will also inform them of their rights and how to go about appealing the decision.

8. **Case No.: ZON2006-18** – Marilyn Moore, Judith Hutchings, Jerry Dressler (owners); K.E. Miller Engineering, P.A., (Kirk Miller) Request Sedgwick County Zone change from “RR” Rural Residential to “SF-20” Single-family Residential on property described as;

The Northeast Quarter of Section 25, Township 25 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas.
Generally located On the southwest corner of 93rd Street North and 119th Street West.

BACKGROUND: The 160-acre unplatted site is located southwest of the intersection of 93rd Street North and 119th Street West and is zoned RR Rural Residential. The site is currently used for agricultural purposes and has a significant drainage canal running through the northeastern quarter of the site. The applicant proposes to plat the site into a residential subdivision containing 96 residential lots (see attached proposed plat). Proposed lot sizes within the subdivision range from just over 5 acres to 20,000 square feet. Those lots that are smaller than the two-acre minimum required by the existing RR zoning trigger the request to rezone the site to SF-20 Single-family Residential.

The applicant proposes to utilize a community sewer system (CSS), per the requirements of the urban fringe development standards. At the time this report was prepared, the applicant indicated they were in discussions with the City of Wichita to provide water. Failing to obtain a publicly supplied water source (city or rural water district) or a city willing to accept a community well and distribution system would leave individual on-site water wells as the water source. This site is located within the Equus Beds Water Management District jurisdiction.

By road this site is located three and one-half miles southeast of the City of Bentley. 93rd Street North and 119th Street West are not paved adjacent to the site. 93rd Street is paved one-half mile to the west of the site.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: RR Rural Residential; large-lot residential

SOUTH: RR Rural Residential; agriculture

EAST: RR Rural Residential; agriculture

WEST: RR Rural Residential; agriculture

PUBLIC SERVICES: Municipal sewer and water services are not available. 119th Street and 93rd Street are unpaved section line roads. 93rd Street is paved ½ mile to the west. Residential units generate approximately 10 trips on an average day. Ninety-six lots could generate an additional 960 average daily trips.

CONFORMANCE TO PLANS/POLICIES: The 2030 Urban Growth Areas map depicts this site as a “rural area.” Rural areas encompass land outside the 2030 Urban Growth Areas predicted for Sedgwick County cities. It is intended that agricultural uses, rural-based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions (normally with lot sizes of two acres or more) with provision for individual, or community water and sewer services are appropriate.

Sewer

Adopted Urban Fringe Development Standards establish minimum standards for sewer, water and traffic. For sewer, a Community Sewer System (CSS) may be used provided the system is owned and maintained by a city or sewer district. Proof that the system has been accepted by a city or a sewer district must be provided prior to the issuance of a CSS permit. Easements for the approved CSS system are to be dedicated at the time of platting. The minimum lot size in a subdivision using a CSS shall be 12,000 square feet, with a minimum side yard setback of 12 feet. At the city's discretion (the city accepting the CSS system), petitions for future extensions and for annexation may be required.

Water

In areas where a municipal or rural water supply system is not available, the subdivider may provide an on-site water supply approved by the appropriate permit issuing jurisdiction(s). For subdivisions located outside of an Urban Growth Area, where individual domestic wells are proposed for the water supply, well construction shall conform to KDHE requirements, and lots with individual domestic wells shall be at least one acre or larger in size. Where individual domestic wells are proposed and the subdivision's is to be located outside of a designated Urban Growth Area, the subdivider must demonstrate that an adequate, safe supply of water is available that does not impair existing water rights within a two-mile radius, measured from the center of the subdivision. In other words, the projected water demand generated by the individual wells located within the subdivision will be combined to estimate the total water demand, as if the subdivision was being supplied from a single community well. For permitting purposes, the total water demand from the multiple individual wells cannot exceed the allocated water rights available under the community well scenario.

Roads

When a subdivision is to be located outside of an Urban Growth Area, the proposed subdivisions shall provide access to a paved arterial street or when the vehicle trips projected to be generated by the proposed subdivision will cause, cumulatively, more than 200 vehicle trips per day on the arterial street. Where paving on an arterial street does not exist at the time of platting to the entrance of the subdivision, the subdivider shall petition Sedgwick County to provide paving, in minimum increments of one-half mile, to the nearest paved arterial. When paving does not exist at the time of platting, the subdivider shall provide a 100 percent to Sedgwick County to provide the paving, in minimum increments of one-half mile, to the nearest paved road arterial.

Comprehensive Plan Goals and Objectives

The Comprehensive Plan contains an objective that states that the County is to enhance and encourage agricultural activities within Sedgwick County, recognizing that viable agricultural land exists within the County. The plan also contains a goal of providing for rural, suburban, and urban residential areas, which provide a variety of housing opportunities.

RECOMMENDATION: In 2000, the City of Bentley had 143 total occupied housing units with an average household size for owner occupied units of 2.82 people. If developed as requested, the proposed SF-20 zoning would allow a subdivision similar to the 96-lot subdivision submitted with the rezoning request. A 96-lot subdivision equals two-thirds of the existing occupied units located in Bentley, or 67 percent of Bentley's year 2000 occupied housing units. In 2000, Sedgwick County's average household size was 2.71 persons. When fully developed, a 96-lot subdivision could be expected to be home to 260 people. Bentley had a population of 392 people in 2000. A population of 260 equals 66 percent of Bentley's year 2000 population. Thus approval of SF-20 zoning at this location would allow for the development of a community that equals two-thirds of Bentley's year 2000 population.

The proposed rezoning is not consistent with the dominant RR Rural Residential zoning and agricultural uses existing in the application area. There are large lot uses in the vicinity, but the vast majority of tracts in the area exceed the RR district's two-acre minimum lot size.

The Urban Fringe Policies more fully refine the County's expectations regarding the provision of basic services for residential development in rural areas. In general, the Urban Fringe Policies anticipated that zoning permitting more intense development in rural areas would be located relatively close to existing communities, and it was likely that the development would be annexed sooner, rather than later.

The applicant has not demonstrated that he can meet basic requirements for the use of a CSS or community well (statement indicating a public agency has accepted ownership of the proposed system) or that he has adequate water rights to support the requested zoning. The applicant may argue that those are issues to be addressed at platting, but without those proofs it is inappropriate to approve a zoning change that cannot be utilized. This site is too remote from service providers and projected growth areas to merit approval, as requested. Based upon information available prior to the public hearings, planning staff recommends that the request be **DENIED**.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** All immediately surrounding land is zoned RR Rural Residential, and all adjacent tracts are greater than 86,000 square feet in size. All properties are used for agricultural or large-lot residential tracts that substantially comply with the RR district minimum lot size. A lone subdivision zoned SF-20 exists one half mile to the west of the application. The character of this area is definitively agricultural with a modicum of large-lot residential uses.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned RR Rural Residential which primarily permits agricultural activities and large-lot residential uses. The site can be put to economic use as currently zoned, and the current zoning is in character with surrounding uses.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Rezoning will permit primarily residential development at three times the density that is permitted by the existing zoning which will change the character of the area, increase traffic and increase demand for publicly supplied services, such as law enforcement, fire and code enforcement. This is an agricultural area. Numerous reports have shown that mixing suburban residential uses with agricultural activities can lead to increased conflict. Cars traveling at higher speeds do not mix with slower moving farm machinery. Agricultural activities can create dust and noise that suburban residents may find objectionable. Extended work hours experienced by farmers may be viewed as offensive to new rural residents.
4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Denial would represent a loss of economic gain, however the site can still be put to an economic use, such as farm ground. Approval would increase demand for publicly supplied services, and remove agricultural ground from production.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The request is not in conformance with adopted plans as the request for SF-20 zoning will permit three times the residential development than currently allowed in the area. The applicant has not demonstrated that he can meet minimum requirements for the use of CSS or community well systems, and any lots less than one acre violate the Urban Fringe Development Policy for on-site wells. The Comprehensive Plan map indicates this site is outside of any city's projected growth or Urban Service Area, and is designated for rural uses and residential lots of two-acres or larger.
6. **Impact of the proposed development on community facilities:** Approval of CSS and community water supply systems require that a public agency accept ownership of the systems, which will increase maintenance responsibilities for that agency. Traffic will increase. There will be increased demands by the lot owners on law enforcement, fire protection and EMS if the request is approved.

DALE MILLER Planning staff presented the staff report.

HILLMAN Is this over the Equus Bed.

MILLER Yes.

DUNLAP I don't know where we stand on the proposal you made to the County Commission that would require these roads to be paved by the developer. Where are we on that.

MILLER That has been approved, and if it goes through then they will have to comply with those. I think basically there is a paved road a half a mile to the west and depending on where the entrance is they would have to cover that distance.

DUNLAP We also approved a community sewerage plant. Is that what they are planning here? Do you know?

MILLER It is my understanding that they intend to use a community sewer system. They have been in discussions with at least one City about possibly getting a public water supply. I am not sure where those discussions are.

DUNLAP But that sewerage plant, we have passed it? I don't know if the County changed it, or required it to be done to a standard that could be connected to the City when they get there.

MILLER Correct, that was included in the ordinance.

DUNLAP So the ordinance now reads that way.

KIRK MILLER, AGENT for the applicant, we are requesting a deferral, because of the issues as far as the water and sewer. We have been talking to the City of Wichita. David Warren in the Water and Sewer Department is interested in running and operating an operation like this. He is still working on the legalities and will have to run it through Council members to determine if this is something they would be interested in, and if they want to own it. If not, we will have to back track and find somebody else to own and operate the system. We do understand the requirements for paving the roads, and we do not have a problem with that. The initial development would start at 93rd Street, so we would pave all the way to 119th Street with the initial development. The interior roads of this project would be blacked topped. As Dale said, we are looking at 96 lots on 160 acres, which is over a lot per 2 acres average density, including the streets and reserves. We would be looking at taking some lots down to about ½ acre because the developer thinks that there is a market for smaller lots and larger lots. We would range from about ½ acre to about 5 acres in this development.

ALDRICH You say you are looking at city water from the City of Wichita?

KIRK MILLER What we are looking at is a community well system, and an alternative sewer system, and having the City of Wichita own and operate them. That is what we have talked to David Warren about, and he is interested in doing that. We have to have somebody that can run the sewer system, and would have to own the sewer system the way the ordinance is written.

MIKE CARMICHAEL, CLERK OF EAGLE TOWNSHIP This development is in our Township, which I am sure most of you are familiar with our townships. We take care of certain areas in the county. I am here to represent our Township with our concerns. They make streets in this development. We get them dumped in our lap, black top streets. We don't have funding or equipment to do these kinds of things. We have had a couple of developments already. Bentley Meadows, the developer paid for the streets, but we got stuck having to maintain them. This is a real problem for us. We also operate a dairy farm across the road to the north, which is also a concern. I see in the staff report document, I see it could be 190 cars a day on 93rd Street. Those of us who have livestock obviously don't want to see that. It is also a concern for the school district. Halstead School District is there. They are in the process of adding on to the school, and this has raised our mill level on school taxes. You put that many homes in it will be a devastating blow to our school district. Also to talk about the farm equipment, the Bentley Bridge crosses the big Arkansas River. The next bridge is Ridge Road, but 5 miles west, a lot of farmers on the south side of the "Big River" farm on the north. 93rd Street is a very busy road with farm equipment.

BOB SYER, 13501 W 85th Street North, also Chairman of the Equus Bed Groundwater Management District and I am on the Drainage District Board that supervises that district. My concerns are that I live about ¾ of a mile southwest of this development. We run a 200 cow permitted dairy that we will provide them with countryside aroma, not by our choosing but that is the way it works. We are very pro agricultural in that area. We have brought in a lot of development that is more of the trailer houses, developments that need some screening in that area in the past 20 years. This development is proposed to be a better development, I believe. It is putting problems on the agricultural industry out there. We are way outside the 30 years plan for the MAPC, I believe. What we are looking at development in that area for the City of Wichita, I think I concur with staff recommendations. I think they have done a very good job looking at this. I also farm ground adjacent, and we do have permits to put animal waste on it. There will probably be some complications to our operations if this is approved. Our dairy has been there for 50 years and we would like to keep it that way. By our house, we do not get about 10 cars a day, and 1,000 cars would be a completely different story for us. We would like to remain rural, and we know that agricultural is important to Sedgwick County. We hope and appreciate your plans that have stated this, and we hope we can keep it that way.

HILLMAN Since you are familiar with the Equus Beds, how many wells could be put down in this new development area, directly into the Equus Bed, at least one per lot, right.

SYER That is right. We don't have any at this point. We don't have any regulations on the Equus Beds on single-family units.

HILLMAN Right, you can't control that.

SYER We do if it was irrigation. There is not, as I understand it, there is no water available for irrigation in that area because it would be over safe yield use. The area has been developed beyond that point, from irrigation or municipal wells.

HILLMAN But they would still be allowed to individually install whatever they wanted for their lawns, etc.

SYER The ground water table in that area is about eight-foot, which is going to be hard to design a sewer system that will be 10 foot above that.

MARNELL You don't see this as a problem for the Equus Bed, do you?

SYER In 50 years we will know the mistakes we made. I think we have a lot of problems out there. I don't know what they are, but it depends on how it develops, or how they develop the water system. If the City of Wichita develops a sewer that meets states regulations, probably not.

DEWAYNE CARMICHAEL I live at 9542, 135th west, my wife and I own adjoining property to this. I represent Sedgwick County Soil Conservation. We at the Conservation District are concerned about the amount of farmland that is being brought by developers. I will give you a figure that I looked up, from 1995 up to the year of 2005, which is, a year ago there has been 1,340 acres of farmland taken out of production and put into development. This is a serious concern for farmers. I wonder when this is going to stop. We have a lot of development going on out around us, and they are building houses, and they are setting empty. Bentley has doubled in size in the last couple of years. The figures on Bentley are probably 2000. The size of Bentley is twice the figures. I am concerned also about the type of housing they might put out there. My wife and I own half a section. The east half of that section is developed and we have a lot of junk trailers houses out there that we are not very proud of. We have some nice residences. We would like to see an amount on how much they are going to spend on a house and what it is going to be like if this passes. I am in total agreement with what the staff has recommended in denying this petition.

KIRK MILLER Again, I would like to ask for the deferral. I failed to mention before that we have been meeting with the County also, Jim Weber and Tim Wagner about the issues to make sure everything is okay with them. We want to get the zoning in place before we worry about platting it. We would like to get it right the first time through and have any issues. I was also hoping to be deferred today because the expert on land use right is not present today. We would make sure to have them at the next meeting to discuss the uses, and what the ownership uses are and those types of things.

DUNLAP I have two, first is your client the contract purchaser or the owner? Secondly, how long of a deferral do you need.

KIRK MILLER My client is the contract purchaser. For the deferral, if we can get something worked with the City of Wichita and considering how fast they operate, I would say probably a month.

MARNELL If this thing does get approved and gets developed, what is your estimated time to fully develop the housing in these 96 lots next to Bentley.

KIRK MILLER My client is also a homebuilder. I'm not sure what his time frame is.

WARNER How old is he.

KIRK MILLER Mid 40's.

MARNELL Question of staff, Dale, in the staff report I don't understand the portion that has to do with population of Bentley and this development. They seem to be unrelated; it is outside their area. Second, question the paragraph after that, having to do with the two-acre minimum lot size. Could this area stay as it is and develop as 90 some lots at two acres each, without changing the zoning.

DALE MILLER Potentially it could. The issue would be, well I suppose it could but minus whatever it takes to for the streets and the roads and stuff to go in, but this Commission...

MARNELL, It might not be as high as 96 but it could develop as something at least a 2-acre lot, so it would be a pretty high number. How about the Bentley question?

DALE MILLER This Commission has adopted a Comprehensive Plan. The governing bodies have adopted a Comprehensive Plan that says you have respect for the growth boundaries defined in that plan. This is outside of any growth boundary, it would be the same thing, as taking 2/3 of Bentley in 2000 and plopping them down somewhere else out in the middle of no where. It just provides a comparison for the impact that this one development could have. The plan says that development should be closer in, where they will be annexed and provided public services sooner rather than later.

MARNELL I understand, but I thought you said it was outside their growth area.

DALE MILLER It's an example of the impact of this proposed development.

MOTION: Deny request.

ANDERSON moved, **MITCHELL** seconded the motion, and it carried (8-1). **DUNLAP** opposed.

MITCHELL Not only is it outside the urban boundary request or plan it is outside the 30-year growth pattern for the City of Wichita. It was the area for which the alternative sewer and water systems community systems was designed to accommodate so that development could occur in areas that cities could not get or provide services and yet would be accessible within a reasonable

length of time and make a rational modern growth pattern. This has nether of those factors, and is in my opinion it is inappropriate for this location.

MCKAY Because the applicant has asked for a deferral does it make any difference John.

SCHLEGEL It is up to you.

9. **Case No.: CON2006-15** – Jason Algya (owner/applicant) Request Conditional Use for an accessory apartment on property zoned “SF-5” Single-family Residential on property described as; Lots 35 and 36, Block 8, Merriman Park Place, an Addition to Wichita, Sedgwick County, Kansas. Generally located north of Kellogg Street, west of Oliver and southwest of the Lewis and Crestway Streets intersection.

BACKGROUND: The applicant is requesting a Conditional Use to allow an accessory apartment on the 0.25-acre platted subject site (Lots 35 & 36, Block B, Merriman Park Place Addition) zoned “SF-5” Single-family Residential and located at 419 South Crestway. The applicant proposes to use the second story of the proposed detached garage as an 882-sqaure foot accessory apartment. The applicant has stated that visiting parents and in-laws will use the apartment. The primary residence is a two-story, 2,250-sqaure foot structure, with primarily brick and some lap siding.

The character of the surrounding area (the College Hill Neighborhood Association) is mostly low to scattered moderate density residential. Surrounding properties around the subject site are zoned primarily “SF-5” with some “TF-3” Duplex Residential zoning mixed throughout the area. Most of the area is developed as single-family residences, with some duplexes scattered among the single-family residences.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use is required to permit an accessory apartment in the “SF-5” zoning district. Section III-D.6.a. of the Unified Zoning Code (UZY) has the following requirements for an accessory apartment:

- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (4) Water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The applicant submitted the attached site plan illustrating the approximate location of the detached garage with the proposed accessory apartment to be located on the second floor. The accessory apartment will be located behind the house and use the same driveway as the primary residence. The applicant has not submitted an elevation drawing that illustrates what the garage/accessory apartment will look like, but has told staff that it will have vinyl lap siding. The main dwelling is sided mostly with brick; therefore, in order to comply with Section III-D.6.a. (2) of the UZY, staff recommends that the accessory apartment have at least some brick siding such as a wainscot of brick. Otherwise, the MAPC will need to recommend that a waiver of the requirement be granted by the City Council. The applicant has also told staff that the accessory apartment will have one (1) window on its west side, two (2) windows on its north side, two (2) windows on its east side and no windows on its south side. Per the UZY, Art.III, Sec.III-D, e, 6, an accessory structure that conforms to all the setback requirements for principal structures in the zoning district can be the maximum height allowed; the “SF-5” zoning district allows a maximum height of 35-feet and the proposed detached garage/accessory apartment, as shown on the site plan, appears to meet the setback standards. There are no platted utility easements in this subdivision (Merriman Park Place Addition, recorded May 16, 1912) and it is advised that the applicant confirms that no easements have been dedicated by separate instrument on the subject site and in particular along its south side, where the proposed detached garage/accessory apartment is to be located.

CASE HISTORY: The property is platted as Lots 35 & 36, Block B, Merriman Park Place Addition, which was recorded with the Register of Deeds May 16, 1912.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5”, “TF-3”	Single-family residences, duplexes
SOUTH:	“SF-5”, “TF-3”	Single-family residences, duplexes
EAST:	“SF-5”, “TF-3”	Single-family residences
WEST:	“SF-5”, “TF-3”	Single-family residences, duplex

PUBLIC SERVICES: The subject property has access to Crestway Street, a paved residential street. The subject property is connected to public water and sewer. No impacts on public services are anticipated.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate “urban density residential” development. The policies of the Unified Zoning Code allow one accessory apartment to be associated with a principle dwelling as a “Conditional Use” if the proposed use is compatible with the principle dwelling, is in

character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. As recommended for approval, the subject property conforms must conform to the adopted policies.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be **APPROVED**, subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a. of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
3. The site shall be developed in general conformance with the approved site plan. The applicant shall also provide a revised site plan within 60 days of approval of the Conditional Use, which will confirm the location of any utility easements and provide more dimension control, showing the location of the detached garage/accessory apartment in reference to all property lines setbacks and its proximity to the primary residence. The site plan will also show on site parking for the accessory apartment.
4. Within 60 days of approval of the Conditional Use, the applicant shall submit for approval by the Planning Director an elevation drawing that provides for a facade that incorporates features from the primary structure.
5. Construction of improvements shall be completed within one year of approval of the Conditional Use.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the properties surrounding the subject property are zoned "SF-5" Single-family residential with some "TF-3" Duplex zoned properties mixed throughout the area. Most of the area's properties are developed as single-family residences, with some duplexes mixed in the areas. The proposed accessory apartment is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a "Conditional Use" in "SF-5" zoning provided the applicant and the site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment is constructed so that it remains in character with the area/primary residence, is subordinate in size, remains under one ownership and remains as a single hook-up for water and sewer services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on surrounding properties should be minimized by the conditions of the Conditional Use. The placement of the accessory apartment within the garage appears to meet the zoning setback requirements, but a revised site plan with more dimension control and confirming the location of any easements is required.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "SF-5". This application as recommended for approval appears to comply with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

MOTION: To approve per staff comments.

HILLMAN moved, **MCKAY** seconded the motion, and it carried (11-0).

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10. **Case No.: CON2006-17 and ZON2006-19** – Lee Jackson (owner), Larry and June Beckman (owners), Patrick Henning (owner), Quik Trip Corporation (applicant) Request Conditional Use to permit a car wash and zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

CON - LEGAL ONLY
Lots 4 through 12, 14, 16, 18 and 20, Block 3, Quincy Addition to Wichita, Kansas.

ZON - LEGAL ONLY
Lots 14, 16, 18 and 20, Block 3, Quincy Addition to Wichita, Kansas.

BACKGROUND: The applicant is requesting a zone change from SF-5 Single-family Residential to LC Limited Commercial and a conditional use to allow a 24-hour car wash to be located within 200 feet of residential zoning in the LC Limited Commercial zoning district. The approximately one acre site is located on the southeast corner of the intersection of West Maple Street and South Illinois Avenue, one block east of West Street. The site is currently zoned LC Limited Commercial on the north nine lots and SF-5 Single-family Residential on the south four lots. The north nine lots (LC) are currently vacant, but appear to have been used as a parking lot at some point in the past. The two center lots (SF-5) are vacant and the two southernmost lots (SF-5) are developed

with one single-family residence. Quik Trip Corporation, owner of the property immediately west of Illinois Avenue from the subject property, is proposing the car wash as an ancillary use to their existing convenience store.

A mix of commercial and industrial zoning with predominately neighborhood retail/commercial uses typifies the land use pattern along the West Street and Maple Avenue frontages. Single-family zoning and development interspersed with multi-family and two-family zoning and development characterizes the area south of Maple Avenue between West Street and Friends University. Immediately across Maple Avenue from the subject property is developed with a small strip retail center, which includes hair salon and automotive services. Immediately east of the subject property is a small neighborhood bar/drinking establishment. Southeast of the site is a small pocket of multi-family use zoned MF-29 Multi-family Residential. A single-family residence zoned SF-5 abuts the site to the south.

The attached site plan illustrates three major changes to the existing site that will require replatting as a remedy. First, two existing points of access onto Maple Avenue will be closed and replaced with one large drive onto Illinois Avenue. This will include dedication of complete access control on Maple Avenue. Second, the site plan shows the closing of the existing alley between the north nine lots and four south lots. Third, the existing setback along Maple Avenue is being reduced from 20 feet, as required by the Unified Zoning Code (UZY), to 15 feet. Also at platting, the applicant will be asked to dedicate right-of way on the northern 20 feet of Lot 4, which fronts on Maple Avenue, for to match the existing right-of-way along rest of the subject property.

CASE HISTORY: The site is platted as Lots 4 – 12 and Lots 14 – 20 (even), Block 3 of the Quincy Addition. There is no other known case history.

ADJACENT ZONING AND LAND USE:

NORTH:	LC Limited Commercial	Retail strip center
SOUTH:	SF-5 Single-family	Single-family residential
EAST:	LC Limited Commercial	Drinking establishment
	MF-29 Multi-family	Multi-family residential
WEST:	LI Limited Industrial	Convenience store, retail strip center

PUBLIC SERVICES: The north side of the site has frontage on West Maple Street, a four-lane minor arterial with a traffic count of approximately 12,000 vehicles daily. The site fronts Illinois Avenue to the west. Illinois Avenue is a local street with no available traffic counts. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: Functional Land Use Guide of the Comprehensive Plan identifies this property as appropriate for local commercial development. The Comprehensive Plan does not specifically address car washes. However, the Commercial Locational Guidelines recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the conditional use and the zoning change be APPROVED, subject to replatting within one year and the following conditions:

- A. The car wash shall be developed according to the site plan and maintained in compliance with all the requirements of Section III-D.6.f of the UZY regarding supplementary use regulations for car washes.
- B. The site shall comply with all provisions of Section IV-C of the UZY, pertaining to compatibility standards.
- C. All proposed lighting shall comply with Art. IV, Sec. IV-B.4 of the UZY. Plus, no proposed pole lights (including base, standard, and fixtures) shall be taller than 14 feet. No pole lights shall be located within any of the setback areas.
- D. The site shall comply with all provisions of the Landscape Ordinance and the applicant shall submit a landscape plan for approval by the Planning Director, which shall include evergreens planted every 15 feet in the south landscape buffer between Lot 20 and Lot 22, Block 3, Quincy Addition.
- E. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- F. At platting, the applicant shall dedicate complete access control to Maple Street and shall dedicate 20 feet of right-of-way to Maple Street from Lot 4, Block 3, Quincy Addition.
- G. After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the conditional use to be declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: A mix of commercial and industrial zoning with predominately neighborhood retail/commercial uses typifies the land use pattern along the West Street and Maple Avenue frontages. Single-family zoning and development interspersed with multi-family and two-family zoning and development characterizes the area south of Maple Avenue between West Street and Friends University. Immediately across Maple Avenue from the subject property is developed with a small strip retail center, which includes hair salon and automotive services. Immediately west of the subject property is a small neighborhood bar/drinking establishment. Southeast of the site is a small pocket of multi-family use zoned MF-29 Multi-family Residential. A single-family residence zoned SF-5 abuts the site to the south.
2. The suitability of the subject property for the uses to which it has been restricted: Most of the site is zoned LC Limited Commercial, which accommodates office, retail, commercial and complementary land use. Given the site's location with arterial frontage and the retail /commercial character of the area it could be developed for retail, office, commercial or complementary land uses. The rezoning of the SF-5 lots to LC would facilitate redevelopment of the site.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting and compatibility standards of the UZC and provisions of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting abutting residential zoning and developments.
4. Length of time subject property has remained vacant as zoned: Only one out of the thirteen-platted lots within the site contains any type of existing development, which is a small retail shop. The remaining lots are vacant. Several of the lots zoned LC appear to have been developed with a parking lot at one time. However, that use has not existed consistently for some time and the lots have remained vacant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Functional Land Use Guide of the Comprehensive Plan identifies this property as appropriate for local commercial development. The Comprehensive Plan does not specifically address car washes. However, the Commercial Locational Guidelines recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.

SCOTT DUNAKY Planning staff has a couple of revisions to the staff recommendation, which the applicant has requested. Staff is in agreement with both. If you would like me to, I'll go over those briefly.

WARNER Staff and applicant agree?

DUNAKY Yes sir. Item C on the conditions, very simply scratch the last sentence and add the following behind "14 feet" – "south of the vacuum station." Item D - simply replace "evergreens" with "shade trees." Staff is in agreement.

MOTION: To approve per staff comments.

HILLMAN moved, **MCKAY** seconded the motion, and it carried (11-0).

11. **Case No.: CON2006-16** – AT & T Services, In. (Leo Dela Pasion) / Schwerdt Design Group (Mike Hampton) Request Conditional Use to permit the installation of an emergency engine for backup power for AT&T on property zoned "SF-5" Single-family Residential on property described as;

Lot One (1) Except the West 10 feet for St. Jesse E. Edwards Addition, Sedgwick County, Kansas. Generally located East of Arkansas, south of 39th Street North.

BACKGROUND: The site is used as a telecommunications facility, and is located south of 39th Street North and east of Arkansas Avenue. The applicant is seeking a "conditional use" for a "utility, major" to allow the installation of an auxiliary generator to provide power to the telecommunications facility in emergency situations. The site is .59 acre in size, and developed with a commercial building, which houses telecommunications equipment. The accompanying site plan depicts the proposed location for the generator as being located behind the existing building, near the southwest corner.

The engine is a 300KW generator that is to be used in situations where power is lost at the facility. The engine will be run 1-2 hours each month, and once per year for five hours. The engine has insulating material to attenuate noise. Ambient noise readings were taken, and the results of those readings are attached. Background noise is impacted by I-235 traffic, as the highway is located just to the north of the site. The applicant indicates that there are significant architectural limitations with the existing building that preclude the installation of the proposed generator inside. Also, fuel storage requirements for the generator limit installation of the generator inside the existing building.

All land surrounding the site is zoned SF-5 Single-family Residential, and developed with homes or other telecommunications uses. To the south of the site, on the adjoining lot, sits an accessory structure that provides some solid screening between the residence and the proposed generator. To the east is a residential lot. To the north is another residence with an accessory structure that provides some solid screening. Land to the west of the application area, across Arkansas Avenue, is owned by the applicant, and used for telecommunications activities. The applicant has indicated they will install a wooden fence to screen the site from the north, east and south, and install landscaping where they can. Much of the northern and eastern yards are paved with a drive and parking, leaving little room for landscaping.

CASE HISTORY: DR 75-7 approved by MAPC on April 10, 1975, permitted the expansion of the use. D-636 provided dedication of 10 feet of right-of-way. The site is platted as part of Jesse E. Edwards Addition, which was recorded in 1951.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; residential
SOUTH: SF-5 Single-family Residential; residential
EAST: SF-5 Single-family Residential; residential
WEST: SF-5 Single-family Residential; Arkansas Avenue, telecommunications facility

PUBLIC SERVICES: The request does not require municipally supplied services. Sanitary sewer is not available. Water service is available.

CONFORMANCE TO PLANS/POLICIES: Utility location guidelines contained in the Comprehensive Plan state that such uses with significant noise, odor and other nuisance elements should be located away from residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The generator shall be installed in substantial compliance with the approved site plan.
2. Prior to starting or using the generator, screening fencing 6-8 feet in height shall be installed along the north, east and south property lines, as depicted on the site plan.
3. Landscaping complying to the extent possible with Landscape Ordinance requirements shall be installed within one-year of approval of this Conditional Use. A landscape plan shall be submitted for review and approval by the Director prior to the issuance of any building permits for the generator.
4. If the Zoning Administrator finds there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII of the Unified Zoning Code, may with the concurrence of the Planning Director declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All land surrounding the site is zoned SF-5 Single-family Residential, and developed with homes or other telecommunications uses. To the south of the site, on the adjoining lot, sits an accessory structure that provides some screening between the residence and the proposed generator. To the east is a residential back yard. To the north is another accessory structure that provides some screening. Land to the west of the application area, across Arkansas Avenue, is owned by the applicant and used for telecommunications activities. Except for the telecommunications uses, this is a residential area.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be used as currently zoned, however communications facilitated by this use as currently zoned would be hampered.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Noise will increase when the generator is in use.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: As indicated by the applicant, the existing generator cannot be repaired do to a lack of parts availability. It is presumed that phone service will be impaired if a generator is not available for emergencies. If approved, neighbors would experience increase noise while the generator is in use. The increased noise will be temporary as the generator is to be used only in emergency and maintenance situations.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Utility location guidelines contained in the Comprehensive Plan state that such uses with significant noise, odor and other nuisance elements should be located away from residential areas.
6. Impact of the proposed development on community facilities: Phone service may be hampered if the request is not approved.

MOTION: To approve per staff comments.

HILLMAN moved, **MCKAY** seconded the motion, and it carried (11-0).

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12. **Case No.: ZON2006-21** – Dillon Real Estate, Inc., c/o Richard Russell / Prism Properties, LLC Request Zone change from “MF-29” Multi-family Residential & “B” Multi-family Residential to “LC” Limited Commercial with a proposed Protective Overlay on property described as;

Lots 10, 11, 12, 13, 14, 15, 16, 17, and 18, Block 4, Southeast Manor Addition Generally located North of Harry and east of West Edgemoor.

BACKGROUND: The applicants' request “LC” Limited Commercial zoning on (south to north) Lots 10, 11, 12, 13, 14, 15, 16, 17, & 18, Block 4, Southeast Manor Addition. These lots are zoned, “B” Multi-family Residential (Lots 18-13, the north portion of the site) and “MF-29” Multi-family Residential (Lots 12-10). These lots are developed as a mix of brick, one-story four-plexus and three-plexus, built in the early 1950s, with common parking areas backing on to Parkwood Lane. The applicants propose the rezoning to allow for the expansion of the eastern abutting, “LC” zoned Dillon grocery store, located on northwest corner of Egemoor Avenue and Harry Street. The rezoning would remove the last residential zoning in the Harry Street – Parkwood Lane – Boston Avenue – Edgemoor Avenue square block, thus zoning all the property within the square block “LC”.

The majority of residential development in the area where the site is located, between Oliver Avenue (west) and Edgemoor Street (east) and on either side of Harry Street, are single-story four-plexus and some single-story three-plexus zoned “B” or MF-29”. Most of these multi-family structures appear to have been built in the early 1950s with the most recent residential development being two small apartment complexes appearing to be built in the late 1960s. Property south of the site, across Harry Street, is zoned “LC” and “B”. The “LC” property is developed as a Walgreen's drug store (built early 2000s), while the “B” zoned properties are developed as four-plexus, built in the early 1950s. Property west of the site, across Parkwood Lane, is zoned “MF-29” and “B” and developed as four-plexus and three-plexus, with common parking areas backing on to Parkwood Lane; the same zoning and development pattern as the subject site. The 55.7-acre Caldwell Elementary school, Curtis Middle school and Southeast High public school campus complex is located north of the site, across Boston Avenue. This public school complex is zoned “TF-3”

Duplex Residential and is the dominant feature of the area. As noted, an "LC" zoned Dillon (built early 1980s) abuts the eastern side of the site.

CASE HISTORY: The subject properties are part of the Southeast Manor Addition, which was recorded with the Register of Deeds July 26, 1951.

ADJACENT ZONING AND LAND USE:

NORTH: "TF-3"	Elementary, middle and high school campus
SOUTH: "B", "LC"	four-plex residences, drug store
EAST: "LC"	free standing grocery store
WEST "B", "MF-29"	four-plex and three-plex residences

PUBLIC SERVICES: The site is located along the east side of Parkwood Lane and the south side of Boston Avenue, both concrete paved, residential streets, with 60-foot of right-of-way. The 2030 Transportation Plan shows no change to the status of these streets. No traffic counts or projections have been done for either of these streets. The site is also located along the north side of Harry Street, a paved four-lane arterial, with a center turn lane and 100-feet of ROW. The Harry – Edgemoor Avenue intersection is the nearest major intersection, located a block east of the site, with traffic counts of 21, 797–20,785 ADTs along Harry and 10,234–4,741 along Edgemoor. The 2030 projections have approximately 24,000 ADTs along Harry with Edgemoor remaining around 10,000–4,000 ADTs. Improvements on Harry, including the Harry – Edgemoor intersection were completed in 2005. Improvements on Edgemoor at the intersection added a left-hand turn lane. Edgemoor has an 85-feet of ROW at this location. All utilities are available to the site, including a sewer line and a platted easements that runs along the common lot lines of the subject site (east side) and the Dillon site (west side); westward expansion of the store structure might require vacation of the platted easements and relocation of the sewer line and manholes in the easements

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan's 2030 *Wichita Functional Land Use Guide Map* indicates the appropriate type of development for the site as "Urban Residential" and the eastern abutting property as "Local Commercial". The "Urban Residential" category reflects the full diversity of residential development densities and types typically found in a large urban municipality. The "Local Commercial" category's uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence mini-storage warehousing and small scale light manufacturing. The applicant's proposed rezoning essentially extends the abutting eastern Dillon's site's "LC" zoning onto the last multi-family residential portion the of Harry Street – Parkwood Lane – Boston Avenue – Edgemoor Avenue square block, and thus zoning all the property within the square block "LC".

RECOMMENDATION: The zoning request is appropriate and offers redevelopment and expansion of the eastern abutting Dillon grocery store, which serves the area's local residences. The site is currently developed as part of the area's large grouping of early 1950s built rental property, typically developed as four-plexus and three-plexus. Opportunities for redevelopment of these rental properties appear to be limited. The applicant has proposed a Protective Overlay (PO, see attached exhibit) which staff has amended. Both buffer the remaining multi-family residences in the immediate area and tie the rezoned lots to the existing Dillon's grocery store development. The differences between the applicant's proposed PO and staff's is primarily the applicant's request for location of signage on the north and west sides of the building on the site, staff's requesting the dedication of a 35-foot setback along the site's west side (the rezoning will make the Dillon's site over 6-acres and the request 35-feet reflect a CUP's minimum setback) and the staff's requesting a 14-foot maximum height for pole lights. The rezoning will trigger the Unified Zoning Code's landscaping and screening standards. Based upon information available prior to the public hearings, planning staff recommends that the request for "LC" zoning on Lots 10, 11, 12, 13, 14, 15, 16, 17, & 18, Block 4, Southeast Manor Addition be APPROVED, with the following provisions of PO 174:

- (1) Provide a restrictive covenant binding and tying Lots 10, 11, 12, 13, 14, 15, 16, 17, & 18 Block 4, Southeast Manor Addition, to Lot 1, the Dillon 8th Addition. To be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- (2) The Traffic Engineer will determine access control along the site's Parkwood Lane frontage. Any required dedications of access control will be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action. No access onto Boston Avenue
- (3) The platted 20-foot setback on the north side of Lot 1, Dillon 8th Addition and the platted 35-foot setback along the south side of Lot 1, Dillon 8th Addition will apply to the site's north and south sides. Dedicate a 35-foot setback along the site's west side. Dedication to be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- (4) Lighting on the rezoned site will be per the Unified Zoning Code, including a maximum height of 14-feet for any pole lighting. Pole lights will be located behind the setbacks, as noted along the site's north, south and west sides.
- (5) Signage will be a monument type and per the "LC" zoning district with no portable signs. No building signs or signs mounted on roofs shall be on the west or north sides of any buildings on the site.
- (6) All utilities will be installed underground.
- (7) All trash receptacles will have solid screening and gating, per the Unified Zoning Code, (no chain link fencing with metal slats) around them.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: South and west of the site there are extensive groupings of four-plexus and three-plexus residential development (which the site is an example of), zoned "MF-29" and "B", which were developed mostly in the early 1950s. A few small apartment complexes appear to have development in the 1960s. The 55.7-acre Caldwell Elementary school, Curtis Middle school and Southeast High school campus complex, (zoned TF-3) located north of the site, across Boston Avenue, dominates the area.

2. The suitability of the subject property for the uses to which it has been restricted: The properties could remain four-plex and three-plex residences. Allowing the redevelopment of the site to allow expansion of the Dillon up to Parkwood Lane probably serves the local neighborhood's residences better than the site's current use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A zone change from "MF-29" and "B" to "LC" at the site, with the provisions of the "PO" should have a minimal effect on the character of the neighborhood. The continuation of Lot 1, Dillon 8th Addition's setbacks, dedication of the 35-foot setback along the site's west side dedication of access control, coupled with the UZC's required solid screening and landscaping onto the site will buffer the adjacent residential development and the school complex.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is not totally in conformance with the Comprehensive Plan's *2030 Wichita Functional Land Use Guide Map*, but the site's immediate proximity to Dillon and its "LC" zoning, plus the fact that the site is composed of what appears to be older rental properties, makes it less likely for investment for residential redevelopment than for the proposed expansion of the local commercial development.
5. Impact of the proposed development on community facilities: A zone change at the application area to "LC" with the provisions of the "PO" will permit redevelopment of a grocery store, which serves the area's local residences is a more appropriate use. This zone change should not increase demands on community facilities.

MOTION: To approve per staff comments.

HILLMAN moved, **MCKAY** seconded the motion, and it carried (11-0).

13. Case No.: DR2004-10 – Request Subdivision Regulation Amendments – Utility Easements Subdivision Committee:

Considered and Approved March 9, 2006, vote 6-0

As per City Council, the attached Ordinance includes the following revisions to clarify the need for additional easements associated with lot splits or vacation cases:

Where an existing lot is already served by any public utility in existing easements, and the easements are less than the minimum width established in this section, additional easements up to the minimum width should be provided when there is a request for a lot split or a vacation of a portion of the lot.

Prior to the approval of the lot split or vacation, and within the time provided in Article 6, the appropriate utility that will use the additional easement shall take the following actions:

- (1) All of the owners of lots along the entire block shall be contacted by the utility to dedicate such similar additional easements. The utility shall inform all property owners that the expanded easement improves accessibility for maintenance and repairs and protection of workers.
- (2) The utility shall allow pre-existing encroachments to remain and hold property owners harmless from damage to the pre-existing encroachments resulting from the utility's work in the additional easement.
- (3) The utility shall offer one-hundred dollars (\$100) to each property owner for the additional easement.

SCHLEGEL, Lets deal with item 13. This came out of Subdivision Committee, ready for adoption by the Planning Commission however, we have received some objections from Westar and others regarding this proposals, what we are recommending is that you send it back to the Subdivision Committee until these new issues have been resolved.

MOTION: Return to the Subdivision Committee until these new issues have been resolved.

WARNER moved, **MCKAY** seconded the motion, and it carried (9-0).

14. Case No.: DER2006-07 – Request Amendment to the Comprehensive Plan – Visual Form Map Update

Background: The 1993 Wichita-Sedgwick County Comprehensive Plan included a Visual Form Map in an effort to improve the quality of the physical built environment in Wichita. It focused upon vistas, corridors, landmarks and other community amenities for upgrading the public environment, improving standards for public and private development, and creating greater community awareness of the importance of its visual image.

In August 2005, the City's Design Council requested the assistance of MAPD staff in updating the Visual Form Map. Following several meetings, The Priority Enhancement Areas for Wichita Public Infrastructure Projects Map was developed to be a replacement of the 1993 Visual Form Map. It is intended to guide efforts to improve community perception and increase the sense of quality of life in Wichita through emphasis of the visual character of public facilities and open spaces. Its purpose is to help the City with prioritizing City of Wichita public works projects along specified corridors, at gateways, and at other selected locations for aesthetic improvements including landscaping, public art, and other visual enhancements to public facilities and rights-of-way.

The Advance Plans Committee directed staff to also visit with County staff to see if there was any interest in making similar designations and types of improvements in the unincorporated areas of the County. Staff met with County staff on March 7, 2006, and their feedback was not supportive of extending these concepts into unincorporated areas.

Kansas statutes require the MAPC to hold a public hearing to review the proposed amendment to the Comprehensive Plan and make a recommendation to the City Council and County Commission regarding its adoption. Planning staff recommends that the public hearing be set for June 1, 2006.

Recommended Action: Schedule a public hearing on June 1, 2006 pursuant to State Statute to receive formal public comment and consider the amendment to the Wichita-Sedgwick County Comprehensive Plan.

STEPHEN BANKS, Advanced Plans, planning staff presented report. This request is for setting the Public Hearing on the revision of the visual form map that was included in the 1993 plan. The City Design Counsel requested us to revisit the map back in August. This map is designed to help the Public Works Department in looking at projects for the CIP Projects, road projects, and other projects in public right-of-way that should receive the 1% funding for Public Art and Visual Enhancement of Projects. This would help target those areas where that would be most appropriate. Advanced Plans Committee review it on February 16, they asked us to meet with County Staff to see if there was any interest in taking this further out into the unincorporated areas of the County. Staff at the County said there was not interest, I would also add that when we meet with the County Commissioners to let them know this was coming their way after your public hearing, they echoed the same sentiments. We are asking for a Public Hearing on June 1st 2006.

MOTION: To approve the application of the Public Hearing.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (8-1-0) **MITCHELL** opposed.

MITCHELL, how much difference is this than the green wedges?

SCHLEGEL, this is not about green spaces.

MARNELL, this is art taken out of Public Works funds.

SCHLEGEL, for public works projects.

MARNELL Public Works taking money away from them to spend on art.

15. Other matters/adjourment.

Mr. Schlegel informed the Commissioners about badges, the Police Chief, Mike has talked to several people, the item is being taken under advisement. This may take a while. Please contact your, the Commission member that appointed you and the City Manager to let them know that you would like to have something that gets you through the door faster.

The Metropolitan Area Planning Department informally adjourned at 4:50 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)